amended by the Sri Chitra State Council has to be sent by the Secretary to the Assembly to the Secretary to the Sri Chitra State Council.

PRESIDENT : The message will be sent in due course.

THE TRAVANCORE CHILD MARRIAGE RESTRAINT BILL.

SRIMATI T. NARAYANI AMMA : Sir, I beg to present the report of the Select Committee on the Travancore Child Marriage Restraint Bill, and beg to move that the Bill, as revised by the Select Committee, be taken into consideration.

MR. M. RAMAIAH PILLAI : I second it.

MR. P. S. NILAKANTA AIYAR : Under Standing order No. 41 (2), I move that the Bill be recommitted to a fresh Select Committee.

Sir, this is an important piece of legislation which vitally affects existing religious usages of certain communities. Sir, although there were two members nominated from among the members of the Tamil Brahmin community which is the most important community affected by this Bill, for some reason or other, the report of the Select Committee does not make mention of their names. It is therefore clear that the views of the Brahmin community which those two gentlemen were expected to represent have not been placed before the Select Committee at all. Mr. Ramasubba Sastri and myself were co-opted for the purpose of this Bill only later, and we have had no opportunity to put forth the views of our community before the Select Committee.

Moreover also judging from the number of amendments tabled including some by the mover herself after she has appended her signature to the Select committee report without any reservation—it is clear that the matter has not been discussed fully by the Select Committee. It is therefore better that the whole question is reconsidered by the Select Committee.

Mr. R. Ramasubba Sastri: Stood up to speak.

MR. M. SIVATHANU PILLAI : May I know from the member, whether he objects to the principle of the Bill, that is to say, the Restraint of Child Marriage Bill?

MR. R. RAMASUBBA SASTRI : I cannot at this stage say that. At least one particular community wants exemption from the provisions of this Bill. I have sent notice of an amendment to that effect. I would like the motion for recommittal moved by my friend Mr. P. S. Nilacanta Aiyar to be accepted by the House. The great difficulty in reference to this matter is that the Tamil Brahmins in the State did not take part in the deliberations of the Select Committee and for some reason or other no name of any person belonging to the Tamil Brahmin community is appended in the Select Committee report. This is a very controversial question relating to a very important section of the subjects of His Highness the Maharaja. It depends mainly upon important theological and religious grounds and I have to submit that I would like the House seriously to feel that if the Tamil Brahmin father or guardian does not perform the Kannikadanam while the girl

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[Mr. R. Ramasubba Sastri.]

is aged 8 to 10, he is consigned to everlasting hell. I do not know whether that aspect of the case has been ever considered by anybody either in the Select Committee or on the floor of the House.

Generally, with reference to religious subjects now-a-days the position appears to be that when religious scruples are mentioned before the House, the person who moves any proposition on the ground of theology or religious scruple is treated either as a humbug or as a hypocrite or as a person subject to softness of the brain. That is a rather hard proposition and all that we can do is to ask that we might be exempted from the operations of a measure the principle of which has been adopted by the House.

If I am allowed to go into the subject of theology which is after all a very dry and difficult subject and which is as wide as the ocean and the infinite, which cannot be discussed within the short space of time that might be allowed to me, I shall do so but I pray that this question might be referred back to the Select Committee so that the Committee may have the opportunity of ascertaining the views of the learned pandits of that community under whose spiritual authority we have to regulate our every day life. The Mathadhipathis or pandits or purohits— all these persons have to be consulted whether we can safely accept the provisions of this Bill. I will also draw the attention of this House to the fact that I have moved the following amendments to clause 6:

"In Clause 6, add the following as sub-clause (iii): 'The Government reserve to themselves the power to exclude or exempt from the operation of this Bill special communities and persons and the fact of such exemption will be published in the Government Gazette."

If that exemption can be provided for by the recommendation of the Select Committee, I submit we may not have the trouble to go into the provisions of the Bill so far as the section of the community to which I belong is concerned. I may say I have no quarrel whatsoever in politics and sociology in following the opinion of the majority, even though my caste scruple might not allow it, as a subject of His Highness the Maharaja. It is very hard that I should be asked to sacrifice my liberty of action, and the liberty of my conscience according to the mandate of the Smritis and puranas and according to agelong customs recognised as law in this State. It is very hard that I should be forced to say that I should not make a gift of my girl at the age of 8 or 10. After all it is only Kannikadanam—it is not marriage it is only betrothal. It is only the parent that exercises a power by which he is supposed to obtain spiritual benefit.

In this connection I may also invite the attention of the House to the fact that perhaps the only important religious function that is now being performed by not only the Tamil Brahmins but by Brahmins everywhere, is the Sraddh. In the Sraddh, oblations are given to

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three ancestors on the male side and as a special feature to the maternal grand parent and three ancestors on the maternal grandfathers side. From that it will be seen that marriage became a sacrament when daughters were given the same rights as sons for oblations. I shall deal with the theological aspect of the question later on, if the Bill is taken into consideration and the motion for recommittal which I support is not accepted by the House.

PRESIDENT: Order, order. If the honourable member wishes to speak on the theological aspect for the purpose of inducing the members to agree to the recommittal, the Chair will not prevent him because the Chair will let him have his opinion fully placed before the House. The House has accepted the principle of solemnisation of marriage after a certain age. The honourable member by his motion for recommittal wants in essence to amend that. In the circumstances if he wants to adduce any arguments in support of his position, especially in view of what fell from the last speaker, namely that persons of his mode of thinking were not represented in this House and that they should be given the fullest latitude of opinion. It is in view of that fact that they have been nominated for the very purpose. I do not desire to put any check upon the fullest expression of the views of the members. Let it not therefore be stated that the Chair did not give the fullest latitude to the expression of the views of the honourable members and the group of persons whose opinion they are voicing.

MR. R. RAMASUBBA SASTRI: With great deference I may say that on religious grounds, the kannikadanam has to be performed by a Brahmin parent or guardian and I ask whether this House will say that it is not so and that it challenges a statement of that kind and that we can be forced on that ground to accept their dictum.

PRESIDENT: Order, order. I do not think that the honourable member can put it exactly like that, because as the honourable member knows, the Smritis are slightly varying in regard to this matter. The honourable member knows that Ashtavarshā Bhavēt Kanya is in the Smriti. The honourable member should not therefore take it for granted that it should be 8 or 10 or 11. In one place 10 is mentioned. Elsewhere 12, 13 and even 14 are mentioned. Therefore the question is not as simple and as self-evident as the honourable member puts it. If the honourable member would rather leave it to the decision of the House and expect the fullest treatment in the other committee if the honourable member's opinion prevails with this House, that is a matter for him to do. But I feel it my duty as President to point out that the honourable members have been nominated because they requested Government that their points of view should be fully placed before the House. Therefore I am inviting them to place their opinion before the House. If they have so much confidence in the judgment of the House that they would rather leave it to their judgment uninfluenced by arguments on one side or the other, it is their particular lookout.

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MR. R. RAMASUBBA SASTRI: With great deference to the Chair what I would point out is that the Hindu community consists of a large number of people falling under four classes or castes, the Varnashrama, Brahmins, Kshatriyas, Vaisyas, and Sudras. The Smritis have provided for marriages for all these classes of people. They have provided for one form of marriage for the Brahmins, another form of marriage for each of the other classes of people. In doing so, they said that this special form was only applicable to the Brahmins and this is not a marriage but a pure betrothal or something like hypothecation of immovable property later on to be followed by mortgage or possession.

PRESIDENT: The honourable member will not carry his reference to the transfer of property too far.

MR. R. RAMASUBBA SASTRI: What I would submit is that the ceremony of Kannikadanam is only a betrothal and not a marriage in the sense in which it is understood. I think the matter may better be considered in the Select Committee where all these religious authorities and others, may be discussed, the opinions of our Purohibits might be obtained and various other necessary preliminaries gone through. If I may address the House on theological subjects also, I would much rather prefer an audience who would not begin to nod the moment I begin.

PRESIDENT: This House is supposed to be competent to deal with any matter which forms the subject matter of legislation. The possibility of nodding exists in the biggest as well as the smallest subjects. That ought not to influence either the House or the honourable member.

MR. R. RAMASUBBA SASTRI: I might submit with great deference that though as subjects of His Highness the Maharaja, we are entirely under His Highness' influence for political and social purposes so far as spirituality is concerned we are entirely under the influence of a faith in the existence of the survival of the body after the death of the physical body. Here so far as we are concerned all the questions that might be discussed in the House will only relate to the welfare of the man till he is dead. After he is dead, so far as the Christians are concerned, excluding the Protestants, the Pope of Rome and so far as the Hindus are concerned, the Mathathipathis, are concerned with the spiritual welfare. On that matter I am not prepared to submit to the authority of the House.

MR. M. SIVATHANU PILLAI: May I know from the member whether all these things were not considered at the time the Sarada Act was passed in British India:

MR. R. RAMASUBBA SASTRI: If my information is correct, this was not considered at the time the Bill was passed in British India. The Bill was hurried through there and afterwards it became a settled fact. That is why I desire that here at least we might be given an opportunity to open that question and discuss it in all its bearings, especially theological bearings. If in spite of these observations I am asked to discuss my reason for my faith.

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PRESIDENT: The Chair has no right as it has no duty either to compel honourable members to adduce certain arguments or not to do so. If the honourable member feels that the discussion of theological subjects or elucidation of Smritis might be better done elsewhere than on the floor of the House, he is at liberty to confine his remarks to that aspect of the matter which he has already emphasised.

If the member thinks that for the purpose of convincing the House a further exploration on the subject is necessary, he might do so. That is a matter entirely within the discretion of the honourable member and I shall not fetter his discretion in any manner. The honourable member knows that in this House, in regard to legislation, the usual time limit is not very rigorously observed. If the honourable member finds that other honourable members should be enlightened in respect of certain doctrines for which he has faith, then he may proceed with his observation in the matter. I leave the matter entirely to the discretion of the honourable member to take any line he chooses.

MR. R. RAMASUBBA SASTRI: I would like to say a few words on the question of marriage from the theological stand point. Marriage is a union of persons of the opposite sex for the purpose of bringing forth a progeny. I believe all creeds are agreed in that. It is accepted on all hands that there is only one God, the All Powerful and Omniscient and so forth. If that is so, what should be the speculation in respect of progeny. The male has to remain in asceticism according to Hindu theology. That alone will lead him to salvation. The position of females is different. If that is accepted, the question of equality of the sexes will become an important matter for consideration. I may also submit in this connection that there are three forms of marriage, sacramental, love marriage, and a sort of marriage which exist for mere pleasure. (promiscuity)

MR. V. K. VELAYUDHAN: Is it not open to an individual to remain an ascetic?

MR. R. RAMASUBBA SASTRI: It is quite open to him to be so. The proper one to be followed is a sacramental one. Of course there are promiscuity marriages. But that is not according to law. Then there is a righteous marriage; again, there is a next class of marriage called "Ardhanareeswara" (The member explained these in detail) They are very serious aspects for consideration. The question deals with the subject of marriage in a wider sense. The question relates entirely to sexes. It is better that such questions be discussed in the Select Committee where we can have a more free discussion on these aspects. A House like this no doubt is competent to discuss the matter. But the preliminary work could better be ably done in the select Committee. But it may be urged that if I were to drag the House into a theological discussion, most probably, many members will be tempted to go to sleep in a way, since the subject is a dry one. Hence I request the House to be somewhat indulgent to me.

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PRESIDENT: That is a matter left to volition. The honourable member is left to see that, by his powerful and persuasive arguments, the House does not go to sleep. Speculating on the possibility of somnolence of the House, the honourable member need not take any particular side. The honourable member may make up his mind one way or the other and if he chooses to deal with the theological aspect of the question, he is perfectly at liberty to do so.

MR. R. RAMASUBBA SASTRI: Then, as one who believes in the theory of survival of the soul, I would request this House to consider one circumstance. In legislation relating to religion, majority views cannot be forced down on minorities, especially on minority communities who have not the opportunity of being fully represented in this House. After all, the Brahmin community is only a small percentage. Even among that, the Tamil Brahmins form only a small portion. To say that a community should be governed by a mere vote of this House on a matter in which they are vitally concerned—that is rather hard.

So far as Tamil Brahmins are concerned, betrothal is a a very necessary and important ceremony. It is a sacrament. The relation between the sexes is after all that of husband and wife.

PRESIDENT: I find that the honourable member has given an amendment to add a Proviso to clause 1. It reads thus:

> "Provided that when a Hindu or Brahmin parent or guardian files an affidavit in the Huzur that he is performing the Kanyakadanam or betrothal of his daughter or ward because of his religious faith as a samskara or sacrament enjoyed by his religion or the Vedas and Smritles, he and the persons joining or officiating in such Kanyakadanam shall be exempted from the operation of this Bill or Act.

If the honourable member thinks that the Bill should be recommitted, he need not dwell on the merits of the amendment proposed by him at this stage. But if the honourable member makes up his mind that the Bill should be recommitted and that for the purpose of discussing that, it is open to him to refer to the merits of the amendment in certain ways he is quite at liberty to do so. I am only drawing the honourable member's attention to the circumstances that he has given notice of an amendment which, without altering the structure of the Bill as a whole, would make it possible for a Brahmin or a Hindu who is not a Brahmin, taking a particular line of thought in regard to forms of marriages—I leave the matter to the member's discretion.

MR. R. RAMASUBBA SASTRI: I would much rather see that the present Bill be recommitted so far as this clause is concerned. But if this clause is favoured by the House, as I pointed out, I will apply for the grace of Government and Royal clemency in the next instance to exempt me from the peril that is sought to imposed by this clause. If recommittal is favoured by the House, I will be enabled to have a much more freedom of expression relating to various clauses in the Bill.

MR. K. P. KOCHUKORATHARAKAN: ശാരദാമ്മില്ല പാസ്സാക്കണ കാല ത്തു് ഇതിനെപ്പററി ആലോചിച്ചിട്ടില്ലയൊ?

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MR. R. RAMASUBBA SASTRI: Most of the provisions in the Bill will work hardship especially to Tamil Brahmins in South India. Mr. T. R. Ramachandra Aiyar who carried on public agitation in this connection stated that, so far as the Tamil Brahmins are concerned, it is a Bill which violated their relious rights and liberties. If this House thinks thst the age-long customs and usages can be abolished by simple votes of the House, I have only to appeal to the Government and the Royal clemency in not giving effect to the measures. In asmuch as religious matters have not been threshed out in the Select Committee, inasmuch as the same aspect was not considered in the British Indian enactment, I pray that the theological point may be gone into. The views of the Matathipaties were entirely against such a Bill. As a matter of fact, what happened was this: The principle of the Bill was accepted without the knowledge of the Matathipathies: When their views came into public prominence, the Legislature in British India said that the Bill has become law. In the same manner, this House too accepted the principle of the Bill. It is therefore I say, the Bill should be referred back to a fresh Select Committee. It is not proper that a vote of the House should be exercised to come to a final decision on this matter. The question whether we are entitled to be forced down by a social Bill of this nature which will endanger the safety of my soul after death of the physicial body which nobody could say, is a very difficult one. As far as I am concerned, I would not risk it. I therefore humbly pray that the Bill may be sent back to the Select Committee.

MR. N. VELU ACHARY: പത്തും പതിനാറും വയസായ ബ്രാഹ്മണ പെൺകുട്ടികളെ ഇപ്പോഴും കല്യാണം കഴിച്ചു കൊടുക്കുന്നില്ലയൊ?

MR. R. RAMASUBBA SASTRI: നിവർത്തിയില്ലാതെവരുമ്പോൾ അങ്ങനേയും ചെയ്യുന്നുണ്ട്. മനുഷ്യർ പാപം ചെയ്യുകൂടാ എന്നാണ നിയമം. എന്നാൽ എല്ലാപേരും പാപം ചെയ്യുന്നുണ്ട്. അതിൽനിന്നും ഒരു മോചനം കിട്ടണമെന്നു നാം ആഗ്രഹിക്കുന്നതു കുറ്റമല്ലല്ലൊ.

MR. N. VELU ACHARY: അതുകൊണ്ടു എന്തുമാത്രം പാപമാണ് ഉണ്ടായിരിക്കുന്നത്?

MR. R. RAMASUBBA SASTRI: അതു ഞാൻ അളന്നുനോക്കിയിട്ടില്ല; അതുകൊണ്ടു പറയാനും നിവർത്തിയില്ല.

MR. M. SIVATHANU PILLAI: Was not the Sarada Act recently amended in the Legislative Assembly by Mr. Das?

MR. R. RAMASUBBA SASTRI: Yes. A similar exemption was sought to be introduced there. But it was rejected on the ground that the whole community should go to hell together.

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PRESIDENT: The motion before the House is that the Bill be recommitted.

The motion was put and lost.

Clause 1

MR. R. RAMASUBBA SASTRI: I beg to move the following amendment:—

"Add the following Proviso to Clause 1;

"Provided that when a Hindu or Brahmin parent or guardian files an affidavit in the Huzur that he is performing the Kanyakadanam or betrothal of his daughter or ward because of his religious faith as a Samskara or sacrament enjoined by his religion or the Vedas and Smrities, he and the persons joining or officiating in such Kanyakadanams shall be exempted from the operation of this Bill or Act."

I submit that this is a matter which is beyond the power of the legislature. I am of opinion that no man can force another man against his liberty of conscience and his own religious sacramental ideas. After all the marriage of a girl in a Brahmin family is not a marriage as in other communities. It is simply in the form of an engagement. If the girl when she attains majority is not agreeable to the marriage can dissolve it by mutual agreement. It is only after attaining majority that the marriage really comes into force. In a matter like this, as a Brahmin and as advised by my religious heads, I say that I have a faith in the existence of a soul after the death of the physical body. The Christian is not required to prove the historicity of Christ and his resurrection before accepting him as the Son of God and a World Saviour. The Mahommedan is not asked to prove there is a God or that Mohamed is the only Prophet of God. Why should the Hindu alone be asked to prove the rational of his religion or theology before his cherished customs are wiped away by a so-called wave of rationalism which insist on improving him without his consent and at the peril of his spiritual welfare. The Brahmin is also at a disadvantage for his position as hereditary priest has been challenged nay almost wiped out and because he is forbidden to seek converts or preach his theology to indifferent or cantankerous ears.

Sloka 67 chapter XVIII of the Gita: —

"Never is this to be spoken by them to anyone who is without asceticism nor without devotion nor to one who disireth not to listen nor yet to him who speaketh evil of one,"

Anie Besant's translation—

That shows that we are not entitled to discuss our cherished sentiments and the feelings of our religion before an Assembly like this. If honourable members who value their own liberty of conscience and their own sentiments, they ought to think that we are entitled to the same respect in an equally important religious matter like this and to give the concession mentioned in the proviso that I have moved. As I have already said, the so-called marriage is after all necessary only to legalise the child. There is absolutely no restriction that a marriage

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should be performed in a church or outside for any child appearing in the world. It is in the interest of the child and the mother or the father that most people agree that they must have a contractual or sacramental marriage. In the interest of the child so that it may be brought up in healthy surroundings it is necessary that we should perform the marriage in the manner ordained by the Sastras. For that we ask permission to give the girl in marriage at the age of 8. If the father fails in his duty, the brother does it. If both the father and the brother fail to do it then the girl is allowed to have her own freedom in the matter. We seek the grace of the Government and this House to perform a sacramental marriage, but for other purposes let there be registered marriages. Nobody objects to that. So long as the conditions exist as at present I submit that we are bound to respect the laws of our Sastras. I may also submit with respect to the treatment of women on equal terms every religion treats her as a junior partner. I do not think any religion other than Hinduism treats the woman as a diety. She is in the capacity of a mother, given the status of a diety in the Hindu Sastras. I may submit that I am honest and sincere in my belief that my human soul will be condemned to ever lasting hell if I do not discharge my duty to get my daughter betrothed before her puberty, the real marriage being consummated afterwards. Government can only look to the physical welfare of the subjects. It cannot see to the spiritual welfare of its subjects. If I am permitted I may point out that so far as this hardship is concerned even a king cannot enforce his orders on his people in spiritual matters.

MR. KOTTALIL P. ABRAHAM: May I know whether the member has any objection for the age limit to be fixed for consummation?

MR. R. RAMASUBBA SASTRI: Generally it is said that with regard to the physical welfare of the subjects Government have the right to say that the marriage be postponed. To that extent, in consideration of the physical welfare of the girl Government have a right to interfere and say that the husband shall not excercise his right till she attains a particular age. That is amply provided so far as my belief of the Vedas goes.

MR. P. S. NILAKANTA AIYAR: I second the amendment In doing so I do not wish to be understood that I am against any social reform being introduced on matters concerning the Brahmins. Society is never static. It grows and probably now grows more rapidly than before. It is sufficient for me to say that as other communities, the Brahmin community also has begun to feel that child marriage (consummation) does affect their health. If child bearing takes place before 12 or 13 years of age it may affect the health of the mother and also the well-being of the child. People among the Brahmin community have begun to feel that. We find that consummation does not now-a-days take place generally below the age of fourteen. That is because people have begun to feel that it is a real drawback in their community. Some members, because of their education and advanced

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[Mr. P. S. Nilakanta Aiyar].

western views, no doubt, are of the opinion that equal status should be given to women. It is only after she grows up and comes to the child bearing age that she is allowed to marry and live as a partner with the husband. Moreover on account of the economic depression people find it difficult to get their daughters married and especially so to people above their standard of life. That is another main reason why many post puberty marriages take place. Most marriages are now becoming an one day affair and it is advantageous to the community as it cuts down the expenses much. There are some Indian States, for example, Indore where legislation is enacted specifying the number of guests to be entertained for a particular marriage ceremony. That is a beneficent piece of legislation, so far as poor people are concerned. I have absolutely no quarrel with the enactment of such legislation even though it contravenes the tenets of Sastras. The Sastras say as follows; "If a girl be not given in marriage when she has reached the 12th year, her mother and father as well as her elder brother these three go to the infernal regions having seen her catamenia before marriage. That Brahmana who blinded by vanity espouses such a girl should not be accepted and should not be allowed to sit at a feast in the same line with Brahmanas; for, he is deemed the husband of a Sudra wife".

PRESIDENT: Order, order. I do not think I could hear. The honourable member will kindly raise his voice and if he is quoting quote loudly.

MR. P. S. NILAKANTA AIYAR: Sir, I was referring to stanzas 22 and 23 Yama which prescribes punishments for a Brahmin who marries his daughter after puberty. It is stated in it that the twelth year is the limit for the marriage ceremony to be performed. Now, Sir, the Hindu religion recognises life after death and according to it, the rewards that we get after life depend on our actions here. For good deeds we get rewards accordingly and for bad deeds we are punished after life. That is the essence of the Hindu religion. According to Hinduism a man should beget a son if he is to attain salvation for saving him from hell as the term 'putra' denotes. And that is the fundamental principle of Hindu theology. Therefore the question now is not so much whether marriage should take place after the twelfth year or before. The question is that if a man believes his religion and according to it and the age-long usages based on the same wants his daughter to be handed over in marriage before her 12th year, whether he should be allowed to do it or not, and whether he should be penalised and sent to jail. We are only concerned with those conscientious people who believe in their religion and custom and wants to obey its precepts. They are people who want to give their daughters in marriage before puberty, according to their convictions of religion. I ask the honourable House whether it would be justifiable for legislation to stand in his way. Sir, it would tantamount to interfering with the religion of a particular community. Government itself have accepted

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the principle that they will give due respect to the religious feelings, customs and rites of communities.'

Probably, the honourable members may be aware of the Hindu Widows' Remarriage Act that has been passed in British India as early as 1856 Though it was passed more than 80 years ago, I ask how many widows of the Hindu society have remarried? Very few. That shows that unless public opinion goes ahead, legislation by itself cannot accelerate reform. Is there any right for other communities to say that the Brahmin community wants certain reforms with regard to their system of marriage. I should like to know really whether public opinion of my community was ascertained.

MR. M. SIVATHANU PILLAI: Does the member know that two of the very distinguished members of this House who belong to the Brahmin community are for the restraint of child marriage?

MR. P. S. NILAKANTA AIYAR: No, Sir, one at least is against it. As a matter of fact, as President of the Sri Rama Varma Brahmana Association I have sent circular letters to all the members of my community from Tovala to Parur to elicit their opinion about this. I have got opinions mostly by way of resolutions passed at meetings from 22 different centres. All of them without a single exception raise their dissentient voice against this measure. I may also say Sir, that Mr. S. Nilakanta Aiyar, a retired judge of the High Court presided over a meeting of the Brahmins at Nedumangad. The resolution passed at the meeting is as follows: "The meeting is decidedly of the opinion that the said Bill is uncalled for, that it being an attempt to interfere with religious rites and social usages of the Paradesa Brahmana community, permission to introduce it should have been withheld and requests His Highness' Government may be pleased to suspend the operation of the Bill or at least to exempt the said community from the operation thereof". And in the covering letter he writes thus: "I have the honour to request you to be so good as to oppose the obnoscious measure tooth and nail." These are only some of the evidences to show that most of the members of the Brahmin community are against this measure.

Sir, apart from these opinions I have gone to various centres of the State and I have had occasion to hold discussions with various groups of our community in various taluks. All of them are against this penal legislation. Those who wish for progressive innovations may by all means have them. But why should a man be punished for conducting a marriage according to age-long religious custom and his conscientious feelings for his religion.

MR. M. SIVATHANU PILLAI: May I know from the member whether the institution called "Suttee" was not in vogue once and whether it is not stopped now?

MR. P. S. NILAKANTA AIYAR: I am aware of the legislation in British India to stop "Suttee" and I was about to refer to it. As regards Suttee even in the earlier times people did not want such an institution

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to continue. It was so repulsive and abhorent to human nature that everybody disliked it, they did not want it to continue. Even at that time the people who opposed the legislation was a negligible minority, if not nil. That therefore stands unique and on exceptional grounds.

MR. V. K. VELAYUDHAN: Was there any such practice stopped by our Government?

MR. P. S. NILAKANTA AIYAR: Yes Sir, and Suttee is the only instance before. Sir, even the Upanishads and Sruthis were written at a time when the four vedas were found insufficient and inapplicable. So if the people found that the laws must be changed to suit the times, they could do so but slowly and in accordance with the opinion and sentiment of the community. That is why I began by saying that I am not against all reforms. Sir, I ask again is the evil of child marriage so rampant in our society as to necessitate the sending of a man to jail for marrying his child at an age below that to be prescribed by the law? The community is only a minority community. It is just over one per cent. of the whole population of the State. It does not want it. Why then should other communities force it upon them. At this rate then, where is the safety for the minority community against the tyranny of the majority. It is here that the question of safeguards and their adequacy come in.

MR. A. THANU PILLAI: I wish to know from the honourable member whether he can give us any idea as to the extent of post puberty marriages that actually exist in the Brahmin community.

MR. P. S. NILAKANTA AIYAR: I don't know whether any statistics exist. But during the last two years they are much more common than before. The mover after quoting census figures stated that the evil is not a very serious problem in Travancore. The figures show that child marriages are not even a fifth here as in British India. I must say that it is not at all rampant here as in British India. In British India they have passed the Sarada Act. We know how many prosecutions have taken place after that. Those conscientious people have been celebrating pre-puberty marriages and Government is so slow in taking action in all those cases. If the evil is not so rampant as to enforce legislation there, why should we want that here. Let us take the case of Mysore, Cochin and Pudukotta, not to speak of Hyderabad legislation similar to this was sought to be introduced in those places but it was not allowed, because the strength of feeling against this was so much. Even in the only place in India where this piece of legislation exists today, to my knowledge there are sufficient safeguards. It would be seen from the following that, even here necessary exceptions have been provided for. I am reading from the Indore Child Marriage Prevention Act. Child marriage means a marriage between persons one or both of whom are minors *i. e.*, below 18 if a male and below 14 if a female. If a child marriage is arranged, application for permission therefor should be made to the local Magistrate who shall enquire into it with the assistance of the assessors. If the magistrate and the Majority of assessors are satisfied,

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1. That if the proposed marriage were not sanctioned the parties would lose all chances of being married at all; or

2. that the parents or guardians of the girl to be married are not likely to live owing to old age or disease till after the girl becomes a major and there is no other person fit to be guardian; or

3. that any other difficulty equally unavoidable is likely to arise, the Magistrate shall accord permission in writing if the girl to be married has completed her 11th year of age. If is enacted that "in no case shall the bride or bridegroom be compelled to attend court for physical examination nor shall the bride be compelled to attend the court for any purpose of the enquiry."

This shows that parties have been given exemption there, in appropriate cases. The objection raised against early marriage, namely, that the number of child widows would be on the increase is not so serious when we consider the number of old maids which this legislation would bring into existence. If you say that girls should be married only after sixteen, there would be no compulsion at all on the part of parents to marry their daughters while now, parents are bound to marry their girls and that before puberty. We know the responsibility of keeping unmarried girls, especially in this period of economic depression, is great. We are aware of the evils that prevail in America or Western Europe where the same conditions exist. Do we want the same state of affairs here also?

The fact that in British India similar legislation has been passed does not mean that we should implicitly and slavishly follow it. Important Indian States like Mysore, Pudukotta and Cochin have refused to introduce such legislation as it affects time honoured religious usages and customs. It is therefore up to us to examine the question independently for ourselves and decide the matter.

Another main reason given by the mover is that British Indian subjects evade the Sarada Act by performing their marriages in Travancore. That argument loses all its force when it is remembered that the Sarada Act has since been suitably amended there, so that even if such marriages are made in Travancore it would become an offence now. So, there is no necessity to remedy that evil now.

Of the two main reasons given by the mover, another is to remedy the mischief of child marriage which exists though on a very small scale. The mischief even though on a very small scale, says she should not be allowed to remain. We have to decide on this and say which should prevail. The evil of child betrothal on however small a scale or penal legislation against agelong religious custom. Let us see how Hindu Law has been expounded and administered in Britith India, in respect of Smrithis and Sruthis. Special sanctity has been attached by medical decisions to long established customs. They definitely state that if there is a definite practice obtaining in British India amongst a particular community even though it be against a particular written text of Hindu law, that custom or practice has to prevail. They pay great respect to the customs obtaining among the people, which if clear and

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unambiguous will, over-rule the written text of Hindu law. It is a known fact that in the community to which I belong, the custom has been prevalent for ages. Even the Privy Council rulings show a reluctance to interfere with such customs though the customs go against the written law. Here it is only in accordance with the texts. It is one of the well recognised principles of Governments that religious usages of the different communities shall not be lightly interfered with.

MR. A. THANU PILLAI: Does not the fact, that latterly the number of post-puberty marriages has increased more than the pre-puberty marriages, show clearly that the general inclination of the community is in favour of post-puberty marriages.

MR. P. S. NILAKANTA AIYAR: I can't say that. Because in all cases where post-puberty marriages have taken place it is my information, that it is due to the lack of money mostly or some other cause in others. No doubt post-puberty marriages are on the increase and are commoner than before.

MR. E. P. VARGHESE: Can religious principles compromise with economics?

MR. P. S. NILAKANTA AIYAR: But that is a fact. They find support from a few progressive people.

MR. P. S. NILAKANTA AIYAR: We can't say that unhealthy children are the result of child marriage. I was told that Mr. E. Subramonia Aiyar is a product of such child marriage (laughter).

PRESIDENT: Order, order, the honourable member can not make personal allusions.

MR. P. S. NILAKANTA AIYAR: The advantages which induced our forefathers to adopt this system has also to be born in mind. I shall read a quotation from Golapchandra Sarkar Sastri's Hindu Law page 89 (1910 edition):

> "It is a religious duty imposed by the Hindu Sastras upon the father or other guardian of a damsel, that she should be disposed of in marriage at a tender age not earlier than the eighth year, but before the signs of puberty make their appearance. The reason of the rule appears to be threefold. The first is,—that marriage should be contracted from a sense of religious duty, and not from a desire of sexual pleasure and so the immediate gratification of it is made impossible. The second is,—that by marriage a girl becomes not only the partner in life of her husband, but becomes a member of the joint family to which her husband belongs; and that, therefore, being admitted into the family at a tender age when her mind and character are yet unformed, and placed amidst the associations and peculiarities of the family of her husband she becomes assimilated to it, upon which she is, as it were, engrafted in the same way as a member born in it. The third reason is, the anxiety felt by Hindu Legislations for securing the chastity of females, which is the foundation of the happiness of home, of the belief in the reality of the family tie and relationship, and of the mutual love and affection of the relations towards each other based thereon, which are so prominent in Hindu society".

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MR. A. THANU PILLAI: In regard to this I wish to know whether the wife begins to live in the husband's family before she attains puberty?

MR. P. S. NILAKANTA AIYAR: It is only after puberty that she comes to the husband's home. Invariably that takes place with the nuptials. It is only in rare instances that Grahapravesam ceremony takes place before and even then, the bride returns immediately after it to her father's house.

There is another evil also. The passing of this legislation would take away from the parent the necessity of getting their daughters married, where as according to Hindu Law and the practice obtaining in the Brahmin community, they have to be necessarily married and that before puberty.

Sir, if this Bill becomes law, on the ground that the law is in their favour, many will unduly postpone the marriages of their daughters. The result will be that in this community also the number of spinsters will increase largely and the evils of the existence of a large number of spinsters in society are well known to honourable members. Knowing as we do the conditions in western countries, especially America, we cannot say that the existence in society of such a large number of old spinsters is an unmixed good.

With these words, I support the amendment.

MR. THARIATHU KUNJITHOMMEN: സർ, ഞാൻ ഈ ബേഗത്തിയെ ബലമായി അനുകൂലിക്കുന്നു. ഒരു ജനവിഭാഗത്തിനു സങ്കടകരമായ ഒരു നിയമം ഉണ്ടാക്കുന്നതു് ഈ ഹൌസിനുതന്നെ ഒരു ധർമ്മവിലോപമായി കരുതേണ്ടിവരും എന്നാണു ഞാൻ വിചാരിക്കുന്നതു്. ആവശ്യമില്ലാതെ ഒരു ജനവിഭാഗത്തിന്റെ മതകാര്യങ്ങളിൽ നിയമമുണ്ടാക്കി കുഴപ്പവും അവർക്കു അസുഖവുമുണ്ടാക്കേണ്ട യാതൊരു കാര്യവും ഇല്ല. ബാല്യവിവാഹം ആരോഗ്യത്തേയൊ സാമർത്ഥ്യത്തേയൊ നശിപ്പിക്കുന്നു എന്നൊരു കുറവു ആരോപിക്കയാണെങ്കിൽ ഈ ഇണ്ടെവത്തിനു വിരുദ്ധമായിരിക്കും. ഈ രാജ്യത്തെ പേരുകേട്ട ദിവാൻജിമാരായിരുന്ന സർ ടി. മാധവറാവു വി. പി. മാധവറാവു മുതലായവരും ലക്ഷ്മിണേൻഡ്യയിലുള്ള വിഖ്യാതന്മാരായ പല രാജ്യതന്ത്രജ്ഞന്മാരും മറ്റൊരോ വിഷയങ്ങളിലും പ്രശസ്തി സമ്പാദിച്ചിട്ടുള്ളതിൽ ഒരു വലിയ പങ്കും ശൈശവവിവാഹം നടത്തിയ മാതാക്കളുടെ സന്താനങ്ങളാണു്. ആരോഗ്യത്തിനു മി. ഈ. സുബ്രഹ്മണ്യയ്യരെ ദൃഷ്ടാന്തമാക്കി ഇവിടെ പറഞ്ഞുവല്ലൊ. ഇങ്ങനെ ശൈശവവിവാഹത്തിനു വിധേയരായ മാതാക്കൾക്കു ജനിച്ചിട്ടുള്ള ഇവിടെയിരിക്കുന്ന ബ്രാഹ്മണസമുദായത്തിലെ രണ്ടു മെമ്പർമാരും അവരുടെ പ്രായത്തിലുള്ള മറ്റു സമുദായങ്ങളിലെ മെ

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ബർമാരെക്കാൾ ആരോഗ്യമുള്ളവരാണ്. ആരോഗ്യത്തിലും ബുദ്ധിശക്തിയിലും പ്രതിഭാവിലാസത്തിലും ഇന്ന ദക്ഷിണ ഇൻഡ്യയിൽ ഉന്നതനിലയിലിരിക്കുന്ന സമുദായവും ഈബ്രാഹ്മണസമുദായം തന്നെയാണ്. ബാല്യവിവാഹം അനേകം തലമുറകളായി നടന്നുകൊണ്ടിരുന്നിട്ടും ആ സമുദായം പ്രശസ്തമായ വിധത്തിൽ പുരോഗമനം ചെയ്തതല്ലാതെ അതുകൊണ്ടൊരുദോഷമുണ്ടായതായി ഇതേവരെ പ്രത്യക്ഷപ്പെട്ടിട്ടില്ല.

MR. M. SIVATHANU PILLAI : ഇങ്ങനെ മുന്നോട്ട കയറാതിരിക്കുന്നതിന ഒരു നല്ല ഉപായമല്ലേ ഈ ബില്ല ഇവിടെ പാസാക്കുകയെന്നുള്ളത്?

MR. THARIATHU KUNJITHOMMEN : അതും ഞാൻ സമ്മതിക്കുന്നില്ല. പ്രായം ചെന്നതിനുശേഷം വിവാഹംചെയ്താൽ പുരോഗതി നശിക്കുമെന്നോ ബാല്യവിവാഹം കൊണ്ടു അധോഗതിവരുമെന്നോ ഞാൻ സമ്മതിക്കുന്നില്ല. പ്രായം ചെന്നതിനുശേഷം വിവാഹം ചെയ്യുന്ന സംപ്രദായം നടപ്പിൽ വരുത്തിയാലും ബ്രാഹ്മണസമുദായം ഈ വിധത്തിൽ തന്നെയിരുന്നേക്കും പ്രായംചെന്നതിനുശേഷമുള്ള വിവാഹം ഒരു സമുദായത്തിന ദോഷകരമാണെങ്കിൽ ഇന്ന അങ്ങനെയുള്ള ഒരു വിവാഹ സംപ്രദായം നടപ്പിലിരിക്കുന്ന യൂറോപ്യന്മാരെല്ലാം അധഃപ്പതിക്കണമല്ലൊ. അതുകൊണ്ട് ഇതിൽ കായ്കുകാരണബന്ധമില്ല. അതുകൊണ്ടു രാജ്യത്തിനോ മറ്റു സമുദായക്കാർക്കോ ദോഷകരമല്ലാത്തവിധത്തിൽ അവരവരുടെ ആചാരങ്ങളനുഷ്ഠിക്കാൻ പൂർണ്ണസ്വാതന്ത്ര്യം നൽകേണ്ടതാണ്. പണ്ടേതന്നെ ഈ രാജ്യത്തെ വിവിധസമുദായങ്ങളിൽപ്പെട്ടവരും വിവിധമതസ്ഥരുമായ ജനങ്ങൾക്കു അനേകകാലമായി അവരുടെ ആചാരങ്ങളെ ശരിയായി അനുഷ്ഠിക്കുന്നതിന പൂർണ്ണസ്വാതന്ത്ര്യം നൽകിയിരുന്നു. അതുമേലും നൽകേണ്ടതാണ്.

MR. K. P. KOCHUKORATHARAKAN : അതുകൊണ്ടു ഈ ബിൽ ആവശ്യമില്ലെന്നാണൊ പറയുന്നത്.

MR. THARIATHU KUNJITHOMMEN മറ്റെല്ലാവിഭാഗങ്ങൾക്കും ഇതു വേണമെങ്കിൽ തന്നെയും ഇവരെ ഇതിൽനിന്നും ഒഴിവാക്കുന്നതു കൊണ്ടുയാതൊരു തരക്കേടുമില്ല. മറ്റു സമുദായങ്ങൾക്കാവശ്യമാണെങ്കിൽ അവരിതു ശിരസാവഹിച്ചുകൊള്ളട്ടെ. ഒരു സമുദായത്തിന ഇതുവേണ്ടാ, ഇതുകൊണ്ടു ദോഷമുണ്ട് എന്നു അവർ പറയുമ്പോൾ അവരെ ഒഴിവാക്കുന്നതുകൊണ്ട് ഗവണ്മെൻറിനൊ മറ്റുള്ളവർക്കോ എന്താണു ദോഷം?

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സമാധാനമായും സൈരമായും അവരവരുടെ മതാചാരങ്ങളെ അനുഷ്ഠിച്ചുകൊണ്ടുപോകാനുള്ള സ്വാതന്ത്ര്യം നൽകുന്നതിനു ഈ ഹൗസ് സന്നദ്ധമായിരിക്കണം. അതിനാൽ അവരുടെ സമുദായത്തിന്റെ ആവശ്യപ്രകാരം ആ സമുദായത്തിലെ മെംബർ ഇവിടെകൊണ്ടുവന്നിട്ടുള്ള ഭേദഗതിയെ ഞാൻ ബലമായി പിൻതാങ്ങുന്നു.

SRIMATI T. NARAYANI AMMA: Sir, I oppose the amendment. The only reason that I propose to place before the House in support of my opposition is that this amendment will give a loop hole for violating all the provisions of this Bill. It will also enable people from British India to come here and celebrate their children's marriages and thus evade the British Indian Act.

Sir, it is now nine years since the original Sarada Act was passed: and till now no necessity has been felt there for an amendment of this nature. Not only that, recently, in April this year, the Act has been amended with a view to the stricter and better enforcement of the provisions. Certainly, Sir, what is good for the whole of British India cannot be harmful for a handful here.

PRESIDENT: Is it the same age that is fixed in the present Bill that is provided for in the British Indian Act?

SRIMATI T. NARAYANI AMMA: No, Sir.

With the permission of the Chair, I shall read a few lines from what Mrs. Muthulekshmi Reddi. Ex-President of the Madras Legislative Council, has stated on this matter.

> "Sir the practice of sati involved only a few minutes suffering, while by the custom of child marriage the girl child from the moment of her birth to her death undergoes one continuous life-long suffering as a child wife, as a child mother and very often as a child widow. So this is a very urgent and a very important measure from the national point of view as it concerns the health and happiness of millions of our girls and the welfare of the future race. If widow remarriage act had not been enacted even the few widow remarriages could not have taken place. I may point out also to the House that a number of Native States as Baroda, Bhavnagar, Kashmir, Kotah, Gondol and Rajkot have given the lead in this matter having already enacted laws prohibiting early marriage in their states. The progressive countries in the world as Turkey, Egypt and Japan have not hesitated to enact laws to put down such pernicious social customs. When such is the case, I cannot understand why the Government should hesitate to give us the law that we need so much a Government too that has seen the good effect of adult marriage in their country."

I only add that this House will not be justified in making any provision for such loop holes as is contained in the amendment proposed.

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MR. JOSEPH VITHAYATHIL: I support the amendment. The principle involved in it is one of religious toleration. Sir, a community, rightly or wrongly, believes that marriage is a sacrament, that there is a life after death, that life here is only a preparation for the everlasting life and that sacraments are necessary for such preparation. The Brahmin community believes that marriage of their girls before the age of puberty is a sacramental duty. Under the circumstances the only question that this House has to consider is whether the community concerned has asked for a piece of social legislation of this nature. When they say that this enactment violently affects their religious and social well-being, why should we interfere? Sir, I myself belong to a religious pursuasion which believes in the efficacy of sacraments, and I really apprehend whether the next step to be taken by this House may not be to interfere with my religious beliefs and practices.

MR. A THANU PILLAI: Are there not other grounds which are as valid as religious grounds?

MR JOSEPH VITHAYATHIL: So far as this particular question is concerned, I should think that it is mainly a question of religious beliefs being interfered with.

MR. A. THANU PILLAI: Will my friend recommend exemptions from this Bill being granted on economic and other grounds also?

MR. JOSEPH VITHAYATHIL: Then, there would be no meaning in penalising child marriage at all. If exemptions are to be granted on all manner of grounds, there would be no meaning in providing for any penalty for breach of the law.

MR. A. THANU PILLAI: That is not my point. If exemption can be granted on religious grounds, I ask, why not on other equally strong grounds?

MR. JOSEPH VITHAYATHIL: Then the question would be whether this legislation is necessary at all. Why should we unnecessarily impose it upon a community which does not want it?

MR. E. P. VARGHESE: Can there be any ground higher than religious grounds?

MR. JOSEPH VITHAYATHIL: According to me, none, Sir. Personally, I would willingly undergo punishment rather than go against my religious conviction.

Sir, the only question that I would place before the House is whether we are justified in imposing our will on the minority

MR. E. JOHN PHILIPOSE: Is the member quite sure that the majority of the community concerned does not want this piece of legislation?

MR. JOSEPH VITHAYATHIL: Certainly, they do not want it. As far as my knowledge goes, the Brahmins are almost unanimously against this piece of legislation. I have read the proceedings of the British Indian Assembly also; and my conclusion is that the Sarda Act has been forced upon the Brahmin community. I am convinced that not less than 90 per cent. of the Brahmins are against this piece of legislation, so far as their community is concerned.

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MR. A. THANU PILLAI: How does the honourable member express that view in the face of the fact that post-puberty marriages are more numerous among the Brahmins than pre-puberty marriages?

MR. JOSEPH VITHAYATHIL: Almost all cases of post-puberty marriages among Brahmins, are due to economic causes and a Brahmin regards it as a sin if he does not marry his daughter before she attains puberty.

MR. E JOHN PHILIPOSE: Does not that show how far the Brahmins consider marriage a sacrament?

MR. JOSEPH VITHAYATHIL: But how does that justify our enacting a penal legislation? I do not say that post-puberty marriage should be penalised.

MR. M. SIVATHANU PILLAI: Is it not better to restrain child marriage in a community which does not recognise widow remarriage?

PRESIDENT: Have we not passed the Widow Remarriage Bill?

MR. M. SIVATHANU PILLAI: Yes, Sir. But I am asking whether, in the case of a community which does not recognise widow remarriage, it is not better to restrain child marriage.

MR. JOSEPH VITHAYATHIL: Even in regard to the question of widow remarriage about which we have passed a Bill, I have no doubt that it has been a case of the legislature forcing its will upon a community which does not want it. It is a matter for educating the communities concerned rather than legislating in this manner. It is up to us to create public opinion among the community, and then make them ask for such legislation. It is not fair that, merely because they do not act as we want them to act, we should force them by means of a legislation to act as we would like them to act.

MR. KAINIKARA PADMANABHA PILLAI: Is it the interest of the girl to be married, or the spiritual attainment of her parent, that should be our sole concern?

MR. JOSEPH VITHAYATHIL: It is certainly not the case that by being married early, the girl's interests are ignored. Child marriage cannot be said to be like *suttee*, which is only another name for suicide. Certainly, in such extreme cases, it is up to the Legislature to interfere.

MR. KAINIKARA PADMANABHA PILLAI: May I know why?

MR. JOSEPH VITHAYATHIL As I have explained, Sir, on no account can it be said that child marriage is like *suttee*. The Brahmin community has not suffered on account of the practice of child marriage among them.

MR. M. SIVATHANU PILLAI: Am I to understand that there are no child widows in the Brahmin community?

MR. JOSEPH VITHAYATHIL: But are there not widows of 14, 15 and 16 also in the Brahmin community?

The House rose for lunch at 1 P. M. and re-assembled at 2 P. M.

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MR. JOSEPH VITHAYATHIL: In Native States like Indore, Mandi and Baroda where there are similar enactments there are provisions for exempting certain communities subject, of couse, to certain limitations and it is only proper that we also should grant exemptions in the case of communities which have religious objections for the observance of the provisions of the Bill. It is a matter affecting religion. The principle involved is of very great importance. I will regard it as a test of the bona fides of the assertions regarding the safe guarding of the interest of minorities. I therefore request the House to attach to the question the importance it deserves. If today such a piece of legislation is allowed to be passed, tomorrow another legislation of a similar nature affecting the religious observances of another community may be introduced. So it is a question of paramount importance so far as the safe-guarding of the interests of minority communities are concerned. and I request the House to appreciate the importance of the question.

MR. A. THANU PILLAI: May I know from the member, what communities, according to him are to be bound by this provision in case Tamil Brahmins are excluded ?

MR. JOSEPH VITHAYATHIL: Any other community which has no objection relating to it.

MR. E. SUBRAMONYA AIYAR (*Nominated*): Sir, I consider it my duty to support this amendment moved by Mr. K. R. Ramasubha Sastri. It is a known fact that the Brahmins in the State do form a minority and when legislation is attempted to regulate that minority, certainly, every member of this House will be at one with me, the determining factor is the minority opinion on that matter. If the Brahmins as a whole or by an overwhelming majority do not require any interference with their customs and ordinances relating to marriage which they consider rightly or wrongly as a sacrament, I ask why we should go and interfere with them. I am not now concerned with the evil of child marriage or the benefits of child marriage. I am sure that much may be said on either side on that fundamental question. We may bring forward ethical reasons and sociological reasons for and against it. But that is not the problems which I want my friends here to consider. The argument that we have got a parallel legislation elsewhere does not at any rate appeal to me. If the matter is examined carefully I am sure it may not appeal to anybody. For various reasons certain legislation might have come into existence in some places and in British India. But whenever you pass a law, certainly it is your duty to consider the social psychology behind it. It is not enough to say we have the power to pass the law and therefore the law is passed and we are bound by it. In this particular legislation I put it to you to consider seriously whether you are not contradicting yourself. You say that the marriage is lawful. It does not become invalid according to you if the provisions of the law are contravened. So the marriage is lawful but the performance of a lawful act you are penalising. Where is the logic in it, I ask. If you are bold enough

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come forward and say that a marriage between a male under 18 and a girl under 16 is invalid. If you feel that much marriages or marriages of other description are wholly detrimental to society, why not come forward and state that plainly. That will be a frontal legislation and not an indirect legislation.

MR. A. THANU PILLAI : May I know from the member whether he raised this objection at the time when the Bill was introduced in the Assembly ?

MR. E. SUBRAMONIA AIYAR : I was not a member of the Assembly at the time when the Bill was introduced and the principle of the Bill was accepted. I therefore put it forward as a reason to consider whether this amendment should be had or not. So far as French India is concerned such marriages are declared invalid. That is a frontal attack. As a lawyer, I am not now speaking as a member of the Brahmin community, I am unable to uphold the soundness of this contradiction. If you say that a marriage is illegal, we know where we stand and there will be no temptation as it were to break the law. But now there is the tendency to break the law. For instance you all know that in England in the early days, theft was punishable with death if the value of the article was more than 6 shillings or 6 pence. I do not remember the exact figure. There was the law. But the consequence was that 12 honest men and true will find the value does not exceed that figure and will find the accused not guilty. But the law went against the social psychology, 12 honest men and true did not find it possible to come to the conclusion that a person who committed theft of an umbrella worth one pound sterling should be immediately sent to the gallows. The only way out for the 12 honest men and true was to come to the conclusion that no theft was committed. That is the social psychology behind it. You have the Juvenile Smoking Regulation. Do you mean to say that juveniles are not to-day smoking and chewing? Comming to personal experience, I have seen hundreds of juveniles under 18 smoking and chewing. How many prosecutions have there been hitherto? I ask will any of you dare to give information for prosecuting a young man for having used a cigarette. There is the law preventing it. Whenever you pass a law, the psychology of the people to be affected by it must be considered. So far as the legislation before the House is concerned the persons who are doubly affected are the Brahmins who have been performing marriages without any restriction whatsoever. I understand my learned friend, Mr. P. S. Nilakanta Aiyar stated that post-puberty marriages are now performed. I must join issue with him. No doubt girls who are above the age of 12, 13, 14 and even 15 are married. But I am not prepared to subscribe to the statement that they are all post puberty marriages. No girl, according to us, will attain puberty before she is married. You understand the significance of it. We have what is called a *thirandukuli* ceremony. After marriage when the girl attains puberty, the thirandukuli ceremony is performed and that is the publication that the girl has attained

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[Mr. E. Subramonia Aiyar.]

puberty and is ripe for consummation of marriage and then the consummation comes.

MR. A. THANU PILLAI: Why should that fraud be continued?

MR. E. SUBRAMONIA AIYAR: It is not a fraud. It is a social necessity. How many girls I ask attain puberty before their 14th or 13th year. I dare say that some may be exceptionally precocious in that direction. But many girls attain puberty after their 14th year and if out of any necessity marriage is not performed before the 15th year are we to canvass and see whether the girl has attained puberty or not?

PRESIDENT: Order, order. There is a limit to physiology.

MR. E. SUBRAMONIA AIYAR: I am pointing out that the community doubly affected is the Brahmin community and you are to see what will be the consequences of such a legislation. What is the social psychology behind it? Has the Brahmin opinion been elicited? We are a minority here. All that I can tell you is that the Brahmin opinion is against it. Therefore I would say that so far as this matter is concerned, if the Brahmin community is to be affected, one should seriously consider whether the law is to be passed as a whole. So far as the age is concerned, legislation is not at all uniform. At one time some reformers might have thought that the age must be extended or increased. There is now a werring round. I understand that in America there are several States where marriages under 12 have taken place.

MR. JOSEPH VITHAYATHIL: May I inform the member that the marriagable age in England was once only 12?.

MR. E. SUBRAMONIA AIYAR: I know that in 1929 the marriagable age was raised in England. I know that. I am only pointing out that even in those countries where the climate is cold and where the people are independent to marry each other, where the marriages were brought about by mutual attachment, the marriagable age before was 12. Referring to modern conditions, there are several States in America where the marriagable age is below 14. In Turkey after the war they wanted to be in a line with the other European countries and they raised the age of marriage. I read in the Hindu a few days back that they find the climate and the associations there are such that the law is not good for them and that the age of marriage must be reduced. So when you are applying a law, it should not be that because you find such a law elsewhere you should also have it. My submission is that if you are going to deal with the Brahmin community.

MR. A. THANU PILLAI: If this Bill is aimed at combating the evil of child marriage, is not the Brahmin community the only community in which that evil exists to a large extent?

MR. E. SUBRAMONIA AIYAR: In answer to that question I say that I attack the premises. The so-called evil is an imaginary evil. I understand that some time back in a humorous way a personal reference was made to me in this House.

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MR. A. THANU PILLAI: How is it that the member does not attack the whole Bill?

MR. E. SUBRAMONIA AIYAR: On account of the limitations within which I am to work. I am not given the freedom as it were to attack the whole Bill for the simple and short reason which my friend Mr. Thanu Pillai knows that the House has accepted the principle of the Bill. So, I cannot question the Bill.

MR. A. THANU PILLAI: If my friend's view is accepted is it not indirectly nullifying the effect of the legislation that is sought to be introduced by this Bill?

MR. E. SUBRAMONIA AIYAR: It is not that you are making a law which will affect all the citizens of the country, as I understand, a lex luci. This is not a personal law. It is a territorial law. It is not a law, affecting the Hindus as such, affecting the Christians as such, affecting the Mohammedans as such affecting the Nairs as such. It is a general legislation you are having for a country peopled by different races and following different religions and having different customs. In the Civil Courts Regula ion it is stated that so far as the Hindus are concerned, in matters of marriage, inheritance and succession, they are governed by the Hindu personal law unless varied by some custom or statute.

This law is really an attempt to vary or modify or supersede the Hindu law and other laws with respect to marriage. Therefore, what is wanted here is a law affecting all the people alike. When you are viewing that matter, we have to take, community after community, and see how far that law will affect the particular community. Even assuming for argument's sake that there is some evil, now that the House has accepted the principle of the Bill—the child marriage has brought about certain evil consequences, that the child marriage has resulted in some unsatisfactory state of affairs—let us take into account the magnitude of the evil and compare it with the injury that might otherwise have caused to the community that is affected. There is the evil A. That quantum of evil will affect the community X. Now, to get rid of the evil A, certain law is proposed to be passed. We may even take it that, if certain injurious consequences follow, we will outweigh the evil that is already existing.

Now I put the question, are we to make a law so far as the Brahmins are concerned, where, the daughters have absolutely no right of inheritance In regard to the widows, there is a qualified interest in respect of inheritance. I will give an instance. Here is a person who is worth 10 lakhs of rupees. At his 55th age, he has a daughter who is 10 years old. The marriage is not performed for her and he dies 2 years after. What is the consequence? No doubt, the Hindu law may say that there is a duty cast on the brother to give away in marriage, his sister. The right of *Stridhanam* can be met from his property. The marriage expenses too can be met from the property. If the girl's father had been alive, he would have found a proper bridegroom, a deserving son-in-law, by spending any amount of money without being

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[Mr. E. Subramonia Aiyar.]

questioned by anybody. Therefore, so far as the law is concerned, it is equally distributed. My friend may stand up and say that a sagacious father might distribute the whole thing by a *post mortem* disposition or *anti mortem* disposition. I very seriously ask the question, why create a difficulty and then search for a safeguard. Now, the father of the girl had passed away. True, there is the girl's brother. The girl may be married after her 14th year. For some reason, that might have to be postponed. Things may develop. When the girl passes year after year. Then the next question will be, wherein lies the obligation to marry. Let the girl become 18 or 19 or even more in age. That kind of indifference will be created. The human nature is such that anything and everything may happen. Excuses may be found imputing the character of the lady in question who remains un-married. In course of time, the brother may say that the un-married girl has become a burdensome matter, so much so, she will be forced to get at a most undeserving husband. Such things are sure to happen. Therefore, my point is that, when you pass a general law affecting all communities, assuming for argument's sake there is an evil, you must take away the evil consequences of the law with reference to each community. Thereby, you will notice that the evil is incomparably small when weighed along with disadvantages and advantages existing in that community. Certainly, we have to stop the evil. So, let us not touch that community. That should be the attitude of the Legislature. The view ought to be to so change the life of that community, to so change their laws of inheritance, so that they can come on a level with other communities. So far as my view goes, I am more concerned with practical possibilities. I am not at all concerned with Sastras. I am only presenting before the House hard facts for mature consideration. On the basis of these facts and according to our social system, my fear is that the Brahmin will be seriously affected by the introduction of this measure.

Again, I put it to the House to consider well the real implications of the law. No doubt, this law has got its own disadvantages and advantages so far as the Brahmin community are concerned. For the poor people, if their daughters remain unmarried, that affords some sort of explanation. Well, the law says that the girl could be given in marriage after the age of 15. So, there is no scope for marrying them. So much so, there is no social discretion or anything of the kind. The same law will affect the richer and more respectable people also in another way.

There is another aspect of the question to be taken note of. The law does not say that the marriage is illegal. Suppose one person gives his daughter in marriage by breaking the law. He says that when the girl is really 12, her age is 14. Where is it said that that is an offence. Such a state of affairs may lead to a good deal of litigation. Therefore, my position is, why should the respectable persons in a community be compelled to become dishonest when self-interest and duty comes into conflict. Even in our Sastras we could get an illustration. In the

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Mahabarata War, Yudhistira had to tell a lie that Aswathama was dead. Therefore, my point is, why should honest and self-respecting people be driven to the necessity of saying utter falsehood by enacting a piece of legislation like this and moreover, this law is not at all wanted by them.

It is not so easy to get rid of all the customs. You may lead a cosmopolitan life which is a different matter. You have to remember that you are bred under a tradition and culture of your own. That tradition and culture cannot be so easily thrown away. The instance of Sankaracharya can be cited. He was an intellectual giant. He was bred up in Malabar. When he went to Benares, he came across a Chandala. He asked that Chandala to disappear from his sight. When the theory of introspection comes, there is no difference between man and man.

It could not be so lightly said that customs have no meaning. They have a greater hold upon every human being. There is the spirit ego which will compel you to commit a crime. When you interfere with religious usages, customs, ordinances etc., of a particular community, before you proceed to say "halt," you must think well of the matter. After all, the Brahmins number about fifty thousand. Of that, twenty five thousand are ladies. Out of that, take away the married people. The unmarried would be only half of that. Let us see after all, every year how many marriages are taking place in Travancore. For the sake of one hundred or a thousand marriages at the most, should we introduce a law which might impinge harshly upon the Brahmin community. So, with all the vehemence I can command, with all the earnestness I can command, my submission is that...

MR. A. THANU PILLAI: May I know, how many child marriages are there in other communities?

MR. E. SUBRAMONIA AIYAR: I am not concerned with other communities at present. The Proviso to this section uses the expressions "Hindu or Brahmin." Therefore I am concerned with that alone. Therefore, in all humility, on my knees, I pray to every member of this House not to interfere with our age-long customs, traditions and other sacraments which enable us to hold our head in point of morals and ethics. With these words, I support the amendment.

PRESIDENT: I have been listening to the arguments of the mover, seconder and supporter of the amendment. I find that their main argument was with reference to the Brahmin community. I find however, that the proviso sought to be introduced reads thus. —

> "Provided that when a Hindu or Brahmin parent or guardian files an affidavit in the Huzur that he is performing the Kanyaka-danam or betrothal of his daughter or ward because of his religious faith as a samskara or sacrament enjoined by his religion or the Vedas and Smrities, he and the persons joining or officiating in such Kanyaka-danams shall be exempted from the operation of this Bill or Act.

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[President.]

I should like to know if that is the form in which the amendment is to be moved.

MR. K. R. RAMASUBBA SASTRI: I have no objection to omit the expressions "Hindu or". I simply put in that expression because I know for a fact that there are some Hindus who still respect Brahmins and adopt them as their religious priests and hence follow their customs in a certain way.

PRESIDENT: The honourable member should make up his mind as to whether he is moving the amendment in that form. I am not here to say that I am in favour or not in favour of this or that particular amendment. The point before the House is whether the expressions "Hindu or" should occur in the Proviso.

MR. K. R. RAMASUBBA SASTRI: I have no objection to omit the words "Hindu or." The arguments I have advanced apply to the Brahmin community.

PRESIDENT: If the mover and the seconder both agree to the deletion of the words "Hindu or," then the leave of the House has to be taken on this matter and the discussion will proceed on that basis. Otherwise, discussion will proceed on the present Proviso which relates to "Hindu or Brahmin" when naturally, the discussion will take a different turn and in a more extended sphere.

MR. P. S. NILAKANTA AIYAR: I am quite in agreement with the amendment proposed by Mr. Sastrigal.

PRESIDENT: Has the honourable member the leave of the House to amend the Proviso in the form now suggested?

MR. C. JEBAMONY NADAR: Sir, I oppose the amendment in that form. There is a community known as the Krishnamvaka, in South Travancore.

PRESIDENT: Does the honourable member object to the deletion of the expressions "Hindu or"?

MR. C. JABAMONY NADAR: Yes, Sir, for the following reasons. The customs followed by the Krishnamvaka community in this matter resemble those of the Brahmins in certain respects. Ordinarily, Brahmins marry before puberty of a girl takes place. The Krishnamvaka community also does so. The sentiment of that community is against the present legislation. It should not be said that the Legislature is partial to one community in regard to legislation. If at all we have a legislation, it must be made applicable to all communities alike. Hence I oppose the amendment.

PRESIDENT: I do not declare the vote on that proposition now.

MR. N RAMAKRISHNA PILLAI: Sir, I support the Proviso in question. I am at one with Mr. E. Subramonia Aiyar in thinking that exemption should be granted to the Brahmin community. Now this is a piece of legislation purporting to affect the whole State territorially. With regard to the Brahmin community my learned friends, the mover and

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the seconder, have vehemently pleaded for exemption being granted to their community. When leading gentlemen of the community like Mr. Subramonia Aiyar, have come forward to declare that their community is not in need of any legislation of that kind, I for one should respect that opinion. Moreover, so far as I am aware, there has not been any demand made by that community for a legislation of the kind now proposed.

I am aware that in British India there has been legislation on similar lines. But so far as British India is concerned, there has been considerable discussion, and agitation on the part of certain sections of the Hindu community all over the country and it was after a good deal of discussion and consideration that the Bill became law there. But so far as Travancore is concerned, I am not aware of any kind of agitation on the part of the Brahmin community, or, for that matter, any other community for a legislation similar to the law in British India. Under such circumstances it is necessary to enquire whether it is reasonable to apply such a law to a community which decidedly opposes the application of such a measure. When leading gentlemen of a community so vehemently oppose a law like this it is up to this House to consider whether it is fair to impose a law of this kind on such a community. The Brahmin community is a minority community and respect should be given to the sentiments now expressed in this House. For that reason, if not for any other reason, I support the motion that has been brought forward.

I have another reason to support the view that I take. I am unable to say that child marriage is always detrimental to the progress of a community and injurious to the health of its members. Probably medical opinion or the opinion of socialists may be in favour of the view that marriage should be performed only after a certain age But that does not mean that that opinion is infallible and that it should be enforced in spite of all other reasons to the contrary. The Brahmin community has been observing this custom from time immemorial. It has not been a mere social custom. To them it has been a sacred performance. Under such circumstances it is not right to impose a law merely on the medical opinion that child marriage is injurious to health. I do not think, the reasons urged are so justifiable and convincing as to induce me to lend my support to that proposition. It is perhaps a question of principle which it is not necessary for me to dilate upon now because the principle of the Bill has already been accepted by the House. So far as the present motion is concerned, on the ground that the community itself does not want it and also that the community vehemently opposes its introduction, I am against the imposition of that measure upon the community.

Another reason which induces me to support this motion is that the present Bill does not seek to penalise the marriage itself. It does not say that the marriage is not illegal. Before a measure of that kind is introduced one would have expected another measure declaring that marriages of that character are illegal.

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MR. A. THANU PILLAI: Sir, I rise to a point of order. Can grounds be urged to go against the principle of the Bill that has already been accepted?

MR. N. RAMAKRISHNA PILLAI: I am not urging grounds against the principle of the Bill. I am only suggesting reasons to oppose the application of the measure to the Brahmin community. This is only one of the reasons that induce me to support the motion and oppose the imposition of the measure on the community. On these grounds, I support the motion.

MR. K. T. THOMAS: Is the honourable member of the view that the exemption contemplated in the amendment would be available only to the Brahmins and not to any other community?

MR. N. RAMAKRISHNA PILLAI: Yes, only to the Brahmin community. I am not unaware of the opposition raised by Mr. K. R. Narayanaperumal Nadar. It is his own and the opinion only of certain of his friends.

MR. K. T. THOMAS: Now that the House has been told that the Krishnamvaka community does not require this legislation but in fact requires exemption: is the member still of the opinion that the exemption shou d not apply to any other community?

MR. N. RAMAKRISHNA PILLAI: I am not convinced that the Krishnamvaka community as a whole is against it.

MR. C JABAMONY NADAR: May I know whether the member has any authority to make that statement?

PRESIDENT: That question is not in order.

MR. T. C. KESAVA PILLAI: ചയിൽഡ് മാരേജിനെ സംബന്ധിച്ചിടത്തോളം ശാസ്ത്രി അവകർ അവതരിപ്പിച്ചിട്ടുള്ള ഭേദഗതിയെ ഞാൻ ഫാർട്ടമായി പിൻതാങ്ങുന്നു. പുരാതീനകാലത്തു ടിപ്പുസുൽത്താൻമാറ സമുദായങ്ങളിൽപെട്ടവരെ മഹമ്മദീയരാകുവാൻ നിർബന്ധിച്ച അവസരത്തിൽ അവർക്ക് അഭയംകൊടുത്ത ഈ തിരുവിതാംകൂർ രാജ്യം, ബാല്യവിവാഹനിരോധനബിൽ ബ്രിട്ടീഷ് ഇൻഡ്യയിൽ പാസായതുമൂലം വളരെ വിഷമസ്ഥിതി അനുഭവിക്കുന്നു. അവിടത്തെ ചില സമുദായങ്ങൾക്കു ഇപ്പോൾ അഭയം കൊടുക്കുന്നതുകൊണ്ടു ഒരു കുറവുമില്ല. അതു ഏറ്റവും ഉചിതമായ ഒരു പ്രവൃത്തിയായിരിക്കുകയുള്ളൂ. ഇപ്പോഴത്തെ അഭയാർത്ഥികളായിട്ടു നോക്കുകയാണെങ്കിൽ തന്നെയും, ഇതിനിടയിൽ ഒരു ഭേദഗതി, ഇവിടത്തെ തമിഴ് ബ്രാഹ്മണസമുദായക്കാർക്കു ഏറ്റവും അത്യാവശ്യമായ ഒന്നു തന്നെയാണു. അതുകൊണ്ടു ഈ സഭയെ പ്രതിനിധീകരിക്കുന്ന അനുഭാഗസ്ഥന്മാരായ മുന്നു തമിഴ് ബ്രാഹ്മണാംഗങ്ങൾ അതിനുവേണ്ടി ശക്തിമത്തായി വാദിക്കുന്നതുകൊണ്ടും,

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അവരുടെ മതപരവും വിവാഹപരവുമായ കാര്യങ്ങൾ അവരെപ്പോലെ നമുക്കു അറിയാൻ പാടില്ലാത്തതുകൊണ്ടും ഇപ്രകാരമുള്ള ഒരു ഭേദഗതിക്ക് നമ്മൾ എല്ലാപേരും മനഃപൂർവമായി സഹായിക്കയാണ് വേണ്ടതു. ഇതിനു വേറെ ഒരുവശംകൂടിയുണ്ടു. സാമ്പത്തികമായി ശക്തിക്കുറവുള്ള ആളുകൾ കുട്ടികളുടെ പ്രായം കുറച്ചുകൂടി ദീർഘിപ്പിച്ചേക്കുമെന്നുള്ളതു് നിസ്സംശയമാണു. പരമാർത്ഥത്തിൽ ഓരോ സമുദായത്തിലും ഉള്ളവരിൽ നൂറിനു എഴുപത്തഞ്ചുപേരും സാധുക്കളാണ് ഇരുപത്തഞ്ചുപേർ മാത്രമെ ധനവാന്മാരായിക്കാണൂ. അതുകൊണ്ടു സാധുക്കളായ ആളുകളുടെ സൗകര്യമാണ് പ്രധാനമായും പൊതുജനപ്രതിനിധികളായ നമ്മൾ പരിഗണിക്കേണ്ടിയിരിക്കുന്നതു്. അതിനാൽ സാധുക്കളായ ആളുകളുടെ എല്ലാവിധ സൗകര്യങ്ങളും ഉണ്ടാകുവാനുള്ള പ്രത്യേകപരിഗണനയോടുകൂടിവേണം ഈ ബിൽ പാസാക്കേണ്ടതു എന്നുള്ള സംഗതി. മുന്നിക്കാണിച്ചുകൊണ്ടു ഈ ഭേദഗതിയെ ഞാൻ ഹാർദ്ദമായി പിൻതാങ്ങുന്നു.

MR. PUTHUPALLI S. KRISHNA PILLAI: This is essentially a piece of social legislation which has to be passed with the majority opinion if not the complete support of the people concerned. It is not the intention of the Government to fight the issues raised. Therefore, Sir, on behalf of Government I beg to state that official members of this House propose to remain strictly neutral.

I may be permitted to point out one fact in order that the discussion on this matter may be further facilitated. From some questions put to some honourable member whether the Brahmin community only is to be exempted from the operations of the Bill, I may say that there is no community which does not come within the Bill. It hits the Nair, the Ezhava, the Vellala and, for that matter, every community in the State. We have the Nair Regulation, the Ezhava Regulation and the Vellala Regulation, under which the marriage of a girl below 16, will be valid if it is done with the consent of the mothers.

MR. A. THANU PILLAI: I wish to know from the Legal Remembrancer the community or communities other than the Brahmin community among whom the evil of child marriage exist to such an extent as to justify a legislation of this sort?

MR. PUTHUPALLI S. KRISHNA PILLAI: In the case of the Brahmin community so long as they hold marriage as a sacrament to be performed before puberty, it is a matter for easy inference that that is the community affected most.

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[Mr. Puthupalli S. Krishna Pillai.]

Among the Nair community, the Ezhava community and certain other communities marriage is more or less a contract. A marriage between a male of 18 years and a female of any age below 16 years is valid under the Nair Regulation if it is performed with the consent of the guardian.

MR. A. THANU PILLAI: Proceeding on the assumption that this legislation can be justified I wish to know what other communities there are other than the Brahmin amongst whom the evils of child marriage exist to such an appreciable extent?

MR. PUTHUPALLI S. KRISHNA PILLAI: I said that it is the Brahmin community. It is a sacrament to them and they believe that it must be performed before the girl attains puberty and so that evil will be more rampant in that community than in any other community. It penalises the Nair community, the Ezhava community, and the Vellala community because under this Bill marriages where the male is less than 18 years of age and the female is less than 16 years old are penalised. This Bill, when it comes into law, will penalise such marriages by whomsoever contracted. That is the position which I wanted to explain to the House.

MR. KAINIKKARA M. PADMANABHA PILLAI: Sir, to me it appears that the question the House must consider is whether they accept the principle of the Bill, before they decide to accept or reject the amendment. I wish to make it clear that I am no fad in the matter of child marriage restraint. As a student of child psychology and juvenile psychology, and knowing as I do the evils prevalent among the present day boys I have got my own serious doubts as to the necessity on the advisability of a child marriage restraint Bill. Often we forget real evils existing in society and we legislate upon ideas handed down to us by previous ages.

Thus I am often led to believe that the attempt to restrain child marriage is after all a mere homage to prudery. Therefore I have no objection if the House goes back once again on what has already been done and reconsider the whole thing. But the first thing to consider now is that so far as the House has once accepted the principle of the bill namely that child marriage has to be restrained, this amendment, I believe, should be rejected.

This amendment as it stands now practically nullifies the operation of the bill. If a Hindu or a Brahmin who simply submits an affidavit is exempted from the operation of this bill and is not restrained from marrying his child, then I think, Sir, the object of the bill will have no effect. My honourable friend Mr. E. Subramonya Aiyar suggested that a frontal legislation is better and I am with him in saying that a frontal amendment is also better. Instead of nullifying the benefit of the bill it is better that some other arrangement is adopted to throw out the bill.

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If child marriage is a social evil and ought to be prevented then I think, Sir, the party if that deserves our first consideration is not the parent but the child. In a marriage the bride and the bridegroom, the parents and other relations of the bride and the bridegroom are the parties that are involved. Among these taking part in the marriage, I have no doubt, that the bride and the bridegroom are the two individuals who have to be considered first. The arguments in support of the amendment generally followed the trend, that a particular community cherish certain religious beliefs, certain religious canons which enjoin them to marry their children at young ages and that if this is not done the parents will be socially banned and suffer hell after life. It means practically that even if the child marriage is harmful to the children and even if the House is convinced that it is harmful to the children, in order to save the parents from perdition in the next world we have to condemn the children to perdition in this world. I think, Sir, it is a proposition that cannot be accepted. The parents were married long ago and they live happily or unhappily in this world. Why should we want to make the lives of their children unhappy by placing the matrimonial burden on their young shoulders. Is it justifiable for the parent to ask their children "You must marry and suffer perdition in this world in order to save us from perdition in the next world." Therefore, when once the House has accepted that child marriage is harmful to the bride and to the bridegroom, that it is a social evil, and, that it is so prevalent in the community as to necessitate a legislation of this kind, then certainly, I would say, that whatever might be the consequences to the parent according to religion the first consideration should be given to the boy and the girl. It has been said that legislative reforms have been made in contravention to religious beliefs and social customs. The most recent example for this is the famous Temple Entry Proclamation. Sir, certain communities were prevented from entering temples on religious beliefs and customs which have prevailed in this country from time immemorial. And we know that during the last 30 years of Temple Entry agitation there was at least a conspicuous minority who were against allowing these communities to enter temples. Yet, the temples were thrown open to all who profess the Hindu religion. One member on the opposite side said that such reforms could be effected only when there are conflicts of interests between two sections of a community. But I say that such reforms should be enacted even if there is a conflict of interests between two individuals. Here it is a conflict of interests between the religious beliefs of the parent based on after life and the welfare of the children in this world. I ask the Government and the House to face this question. Are we to stand by the religious beliefs of the parent, or are we to stand by the prosperity of the children? If we believe that there is real evil in child marriage and so it has to be restrained in view of the interests of the children, this amendment must be rejected.

MR. P. KUNJUKRISHNAN: Sir, I oppose this amendment. To me it appears that this amendment cuts at the very root of the objects of

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[Mr. P. Kunjukrishnan.]

this bill which has been brought forward in order to restrain child marriage in communities where it exists. And in Travancore we know as has been exaplained here by certain honourable members that child marriage exists mostly among the Brahmin community and to some extent among other communities as well. And if the Brahmin community is to be exempted from the operation of this bill I doubt why a bill like this should be brought into this House at all. And it was also argued here that the Brahmin community as a whole has entered their strong protest against the enactment of this bill. Sir, I am at a loss to know when this strong protest came. To me it appears that there was not a strong or for that matter a general protest from the Brahmin community.

MR. E. SUBRAMONIA AIYAR: May I know from the honourable member on what information he says that there is no protest from the Brahmin community?

MR. P. KUNJUKRISHNAN: Sir, I was saying that there was not a general protest.

(One member cried out to go on)

PRESIDENT: Exhortations to honourable members to go on is not in order.

MR. P. KUNJUKRISHNAN: Sir, we have several other amendments here which go to the extent of reducing the age limit from 16 to 14, 13, and so on. If it is the idea of the honourable member who moved this amendment that the age limit should be reduced, then it is better that we support those amendments and see that they are carried into effect. Then it was said that the religious beliefs and notions and the religious faith of a particular community should not be meddled with. And so those communities should be permitted to go unhampered in respect of their religious notions and beliefs. But my view on the point by the experience that has been gathered is that the State's interests are to be taken into consideration first and it is the primary concern of the State as the guardian and custodian of the well-being of a community to see that whenever a legislation is enacted for the good of the country the State should not be disheartened by those aspects which prevent the enactment of that legislation. Sir, there is no meaning in saying that a particular community should be left alone to decide for itself as matters like this and the State should not interfere with them. So it is quite proper that a legislation is brought into being if it is found to be good and necessary for the community and the State at large. The principle of the present bill has been adopted and accepted by this House. Therefore I may say that the exemption asked for in the amendment should not be given in so far as it frustrates the objects of this legislation.

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And again, Sir, this exemption if granted will enable outsiders who are affected by the Sarda Act to go over to Travancore and celebrate marriages of their children and thus escape the law existing in British India. Thus we will be responsible for nullifying the effect of the Sarda Act which has been enacted on account of popular demand in British India.

MR. E. SUBRAMONIA AIYAR: May I know from the member whether the Sarda Act has not been amended and now there is no cause why a person should come over to Travancore to celebrate child marriage?

MR. P. KUNJUKRISHNAN: It was said here that legislations of a social and religious nature should be enacted only if the majority of the people demand for it. But we know as a matter of fact that the celebrated Temple Entry Proclamation was made statutory even though there were some protests here and there from persons who believed according to their religious faith that if such a law is brought into being that would be detrimental to the interests of the society. But in spite of those protests when it was found that it will promote the good of the country and the interest of communities and of the society at large, that law was promulgated with a daring and courage which are rarely met with in the history of legislation. Now we find that it was an eye opener to the outside world especially to those people who were deadly against it. We find that no harm is done to religion by allowing all Hindus to worship in the temples.

MR. E. SUBRAMONIA AIYAR: Is the member aware that the Temple Entry Proclamation does not touch the internal conditions of the Brahmins?

MR. P. KUNJUKRISHNAN: I think it does affect Sir. Sir, we know as a matter of fact that the Brahmins instead of having a separate and exclusive way of life so far as religion is concerned have now definitely changed their outlook and this makes them only more prosperous and happy. This is another reason why I oppose this amendment and I appeal to this House to throw this amendment out.

Sir, before I close I wish to say a word about the question of health of the children. I think many of the honourable members of this House know that child marriage tampers with the health of the mother and the health of the children as well. So it is injurious to the health of the society at large. With these words I oppose the amendment.

MR. E. JOHN PHILIPOSE: Sir, one question.

MR. M. SIVATHANU PILLAI: Sir, is he in order?

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PRESIDENT : Any honourable member can put a question to any other honourable member. I take it that the object of the honourable member to put a question to Mr. Subramonia Iyer arose out of his observation.

MR. E. JOHN PHILIPOSE : May I know whether he has considered the implication under lying the Temple Entry Proclamation to the Brahmin community?

MR. E. SUBRAMONIA AIYAR : The Temple Entry Proclamation does not affect the internal condition of the people whereas this one affects it. Annaprasanam, Upanayanam, Chowlam etc., etc. all these are sacraments for each Brahmin to regulate his life as a Brahmin The Temple Entry is an entrusted, engrafted thing upon the Brahmins' life and for them, as Brahmins they have every right to worship in every temple where there is a God. It has nothing to do with the internal arrangement of the Brahmin.

PRESIDENT : Order, order, The honourable member will confine himself to answering the question.

MR. E. JOHN PHILIPOSE : I want to know what he really means...

PRESIDENT : Order, order. Further explanations are not allowed.

MR. A. THANU PILLAI : I rise to oppose this amendment. So far as I understand the facts relating to this Bill, I wish to point out that if the Brahmin community is exempted from its operation, it becomes practically inoperative. I shall make my meaning clear. In putting a question to the Legal Remembrancer I suggested that social legislation restraining the liberty of the citizen can be justified only when there is an evil to be removed. Now it is conceded, from what I have been able to see here from the honourable members, that if we exclude the Brahmin community then there is practically no other community, probably excepting the Krishnan Vakai community, which can be said to be labouring under the evil of child marriage to any extent. The Legal Remembrancer mentioned the Nair community, the Ezhava and the Vellala and other communities where there are no restraint on child marriage. But the fact is, practically speaking there is very little or no child marriage obtaining amongst these communities. Now we should not put on the Statute Book a piece of legislation merely for the sake of doing it. It must have some meaning. I would certainly contend that if for instance, in the Nair community or Ezhava community there is one child marriage out of 5000 certainly there would be no justification in enacting a law of this kind. Such very exceptional cases must certainly be left to themselves. If there is an evil to any extent, legislation can be justified certainly. If this community is to be exempted I would rather say that the Bill has to be dropped. Mr. E. Subramonia Aiyar wa not a member of this House when this Bill was introduced and there was no objection raised by the then member who was to speak about the Bill, in so far as it affected

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the Brahmin community. I think it was Mr. Oollur S. Parameswara Aiyar that spoke on that occasion. I asked him whether he had any objection. He said " no, let the Bill go to the Select Committee". So I say that the time for making the objection is gone. It is clearly irregular to take objection now. Really I find myself in a difficult situtation. If this amendment is carried I must plead that the House should have the good sense to drop it. As things stand I must oppose this. They have enacted this in British India and in social matters as this we should be prepared to follow the lead given by them. There, eminent Brahmins dealt with this question; there were a lot of criticism on the press and platform and yet the law was placed in the Statue Book. There are a lakh of Brahmins in Travancore why not we adopt it here. The objection raised by Mr. Ramasubba Sastri have been raised there also. I think all these have been over-ruled there. I put the question to Mr. P. S. Nilakanta Iyer as to the proportion of post-puberty marriages and pre-puberty marriages. The answer was that the number of post-puberty marriages exceed the other

MR. E. SUBRAMONIA AIYAR : I am clearly of the view that post-puberty marriages very seldom take place.

MR A. THANU PILLAI : I know that Mr. P. S. Nilakanta Iyer has been here for a very long time. He is fully conversant with the Brahmin customs here. I have asked many young Brahmin friends and they say that child marriage gives them a lot of nuisance. They complain that before they are out of their teens they become fathers. There are found today all manner of difficulties. The difficulties are found among the Brahmins and I am afraid, without meaning to affect the susceptibilities of any person, these objections on purely religious grounds cannot stand scrutiny at present. This is what I have to say about this: Let us consider this. Suppose out of hundred marriages sixty marriages take place as really post-puberty marriages. What is the position of these people. There will be some stigma attached to them even though they are numerous. Why should we expose such people to that redicule. Let us accept the conditions as they are. Why should some people be allowed to labour under this kind of disability from old-world notions. Nothing is lost thereby. The objection raised on the relegious ground cannot stand scrutiny. Mr. Subramonia Iyer raised the objection that daughters have no right of inheritance in the Brahmin family; so they should be married early. I say it is his duty to see that the daughters also get a share. That is the line in which he ought to proceed. He should not confine himself to this old world idea. Let us proceed in the right line of progress. I don't think any substantial objection beyond this, was raised to this Bill affecting the Brahmins. There are no other communities to be affected by this. On this ground, Sir, I oppose the amendment as it is now moved.

MR. E. P. VARGHESE : Sir, I support the amendment, mainly on the ground that all the representatives of the particular Section who will be chiefly affected by the Bill in this House have moved that they should be exempted from it. I think it is not fair on the part of this

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[A. Thanu Pillai]

House not to attach any weight to the question of penalising a community especially in the matter of social legislation. My view is that social legislation, shall never be imposed on a community against its will, however small it might be. The smaller the community the greater is the reason why the majority should not force a law on it. It may be possible for this House to pass the legislation. But we must consider whether there is a need for such a legislation and whether there has been a demand from the community which is affected by it. From what the honourable member Mr. Nilakanta Iyer stated, we understand that there have been objections to this Bill from 22 centres in the State especially from the Brahmins who claim exemption. I think, we must in fairness, attach some weight to their demands What is the harm in exempting this small community from the operation of this Bill, especially when they say that they do not want it and that they have got rilegious scruples. This House cannot force a legislation especially when a minority says that it is against their religious injunctious custom and usage. I need not dwell at length on the principle involved in this. What appeals to me is that such a small community as the Brahmin, when they unanimously protest shall in fairness be exempted. The House should listen to their voice.

MR. K. T. THOMAS: May I know whether the member is prepared to exempt the Krishnan Vagai community?

MR. E. P. VARGHESE: When there is a unanimous demand from that community as we have now from the Brahmins we may consider that.

MR. T. M. VARGHESE: Sir, I oppose the amendment. I am in complete agreement with the view that the religious beliefs or religious usages of a community should not be lightly trespassed upon by the legislature particularly so if the community concerned happens to be a minority community. But in my opinion a distinction of very vital importance has always to be kept in view in a matter like this. The distinction that I refer to relates to this, namely, the difference between religious beliefs and religious usages of a community on the one hand and the religious scruples and sentiments of individuals. The test I would adopt for ascertaining this difference is this. If for doing a thing the community would visit those members of the community who are responsible for that act with some sort of punishment such as religious excommunication or social degradation then it is certainly not right on the part of the legislature to intervene and legislate on behalf of the community to direct or permit the doing of such things. Such arbitrary intervention on the part of the legislature will tend to create in the community artificial usages or customs which are calculated to bring about in the community a sort of conflict, as it were between their allegiance to the laws of the land and their adherence to the rules laid down for their conduct by the community. In respect of the Tamil Brahmin community in Travancore I don't think that the community visits post-puberty marriages with any kind of social degradation or religious excommunication so far as my information goes.

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MR. K. R. RAMASUBBA SASTRI: At present I say, will any Tamil Brahmin, I challenge that statement of the member, come forward and say "I prefer post-puberty marriage to pre-puberty marriage" If he comes then I say he will be an agnostic and then in such cases...

PRESIDENT: Order, order. Honourable members are entitled to put questions but not to make such speeches.

MR. K. R. RAMASUBBA SASTRI: I would just put the question to the honourable member whether he can point out a single instance of a Tamil Brahmin who would say that the Hindu Sastras sanction post-puberty marriage and that he is for post-puberty marriage. If there are such Brahmins, I would only say that they are agnostics. In such cases, as Mr. E. Subramonia Aiyar observed.....

PRESIDENT: Honourable member can only put a question now. He is not entitled to make a speech at this stage.

MR. K. R. RAMASUBBA SASTRI: I shall develop my remarks when I get the opportunity to speak. Just now I may say that I challenge the statement made by Mr. T. M. Varghese, and would ask him to show a single Tamil Brahmin who will come forward and say that he prefers post-puberty marriage to pre-puberty marriage. As I said, if there is any Brahmin who say so, certainly he is an agnostic.

MR. E. SUBRAMONIA AIYAR: May I ask my friend Mr. T. M. Varghese whether any Tamil Brahmin—I mean the ordinary Brahmin and not one of the very few so-called social reformers in the community—will admit that he did perform post-puberty marriage of his daughter? If any Brahmin would openly make such admission, certainly the community would ostrecise him.

MR. T. M. VARGHESE: I submit, Sir, that the information furnished by both Mr. Ramasubba Sastri and Mr. E. Subramonia Aiyar has only strengthened my point. I do concede that the orthodox section of the community will view post-puberty marriages with disfavour. We are now legislating for the Travancore State, and the present amendment is for a particular community being exempted from the general provisions of the statute. My point is that, if any exemption is to be granted in favour of a particular community, the test to be applied is to see how and with what seriousness the community looks upon and deals with the act which is sought to be penalised by the provisions of a statute, remembering that such penal provisions are to be introduced by way of exemptions. Certainly, if a post-puberty marriage is visited by punishments like social degradation or excommunication by the community or by its religious head they will be justified in asking for the exemption now proposed in the amendment; but not otherwise. There can be no objection to respect the religious sentiments or scruples of individuals; that is a personal matter. But for the Legislature in legislating for the State to respect any particular religious usage and exclude it from the operation of the general provisions of the statute the test of excommunication or social degradation referred to by me must be applied. If my honourable friends who are now pleading for

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[Mr. T. M. Varghese.]

the exemption can point out to me that the solemnity of a marriage is likely to be prejudicially affected by the circumstance of the bride having attained puberty before the marriage, or that the off-springs of such marriage are likely to experience any social disabilities certainly I would support the amendment. In the absence of any such justifying circumstances I submit, the Legislature will not be justified in providing for the sort of exemption now proposed by the amendment.

Sir, as the Honourable member Mr. Thanu Pillai observed, this House has accepted the principle of the Bill and has, in so accepting the principle of the Bill, conceded that the evil—or the supposed evil—of child marriage should be eradicated. Therefore it is up to the House to see that we are not made the laughing stock of others by our allowing the proposed exemption; because by allowing the exemption we will be defeating the very purpose of the Bill. The Bill will also become meaningless by the amendment.

With these remarks I oppose the amendment.

Mr. M. SIVATHANU PILLAI: With very great respect to the very weighty words of the Honourable member Mr. E. Subramonia Aiyar, I am afraid I must oppose the amendment; and, in so doing, I would appeal to Mr. Ramasubba Sastri to withdraw this amendment.

Apart from the various arguments advanced against the amendment with all of which I agree, I would just put it to the House to consider whether, after all, the Bill as it stands would really affect the Brahmin community to such an extent as has been painted here. Just a little while ago, I received a communication from Mr. S. Krishna Aiyar to the effect that we should all support the Bill as reported by the Select Committee.

MR. A. THANU PILLAI: Are we really concerned with that communication from Mr. Krishna Aiyar?

MR. M. SIVATHANU PILLAI: At any rate, Sir, I am concerned with it.

PRESIDENT: I suppose, that communication is one of the factors which has led the Honourable member to make up his mind in the way he has.

MR. M. SIVATHANU PILLAI: There is no doubt, Sir, that Mr. Krishna Aiyar also is a respectable Brahmin gentleman; therefore, it is perfectly legitimate that every member of this House should give weight also to Mr. Krishna Aiyar's words, at any rate in regard to this measure. That is my justification for referring to Mr. Krishna Aiyar's communication.

After all, Sir,—as I put it a little while ago—is the Brahmin community going to be so seriously affected by this Bill as has been painted to be? I must admit, Sir, that, however strong may be my friend's objection to the present Bill, the Brahmin community is a very very elastic community and can wonderfully accommodate itselfy to any situation, adapt itself to the surroundings however strange they may be. That must be conceded to the credit of the Brahmin community.

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MR. E. SUBRAMONIA AIYAR : May I ask whether it is because that community is inarticulate that my friend has come to that conclusion ?

MR. M. SIVATHANU PILLAI : I do not concede that it is inarticulate. It knows when to be articulate and when to be inarticulate ; and it is articulate whenever necessary. I know, Sir, that the community is large-hearted enough to understand the larger needs of society and of the nation and to make sacrifices even of its own interests when necessary.

Sir, my observations will be proved by a mere reference to the list of amendments, which has been printed and circulated to us. Sir, the first amendment is for the recommittal of the Bill to the Select Committee. Here the mover failed in the attempt. Sir, look at his elasticity. Then, in the form of another amendment, my friend tried to exclude the word 'Brahmin' from the definition of the word 'Hindu' in order that the Bill may be inoperative as against Brahmins. There also he failed. Then my friend came down to clause 2 and proposed the addition of an explanation which would have the same effect of the first two amendments which were thrown out by the House. There also, he failed. Still he did not lose courage ; and now there is the present amendment providing for exemption from the operation of this Bill, of the Brahmin community.

Sir, I suppose it will be now clear to the Honourable members of the House how elastic and accommodating my friends of the Brahmin community are ; and I hope that they can very well adjust themselves to the provisions of the Bill as it is, which is the same as already passed in British India.

Then, Sir, in regard to the observation made in support of the Bill, to the effect that it has been passed into law in British India, my friend Mr. Ramasubba Sastri went to the extent of hinting that there were not, in British India, very many big Sastris and Pandits as we have here in Travancore. Sir, I have read the proceedings of the Indian Assembly on the subject, and I find that the religious point of view had been fully discussed there. In fact, Sir, in support of the Bill, reference was made to the fact that Sri Rama married Sita when she was eighteen. Certainly that is what Kamba Ramayanam—Tamil Ramayanam, which I know says ; and I am told that there is no difference in this respect between Kamba Ramayanam and Valmiki Ramayanam. Sir, I do not think anybody will say that the parents of Sita went down to perdition, for having waited to give Sita in marriage till she attained puberty.

I would appeal to the House to imagine for a while the sight of a child-widow. My friend Mr. Ramasubba Sastri might ask us whether we have not passed the Widow Remarriage Bill. It is only a permissive legislation. It does not compel widows to remarry. Further, why create childwidows at all I ask. That is the question that I would ask. Is it not better to prevent child marriage altogether so that there will be no child-widows at all?

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MR. E. SUBRAMONIA AIYAR: Is there any statute fixing minimum age for widow-hood, saying that there shall be no widows below a particular age?

MR. M. SIVATHANU PILLAI: Sir, we have to believe in death more than in birth. The moment I am born in this world I am assured that I will have to meet with death. Therefore, if a girl of ten is married, certainly, she has to be prepared for widowhood also. That is why I ask whether it is not better we exclude altogether the possibility of child widowhood. But for the fact that there are numerous child widows, certainly, we would not have supported the Widow Remarriage Bill. When I raise the question of child widows, my friend Mr. Ramasubba Sastri naturally reminds me of the Widow Remarriage Bill; that shows that therefore he also looks upon that measure with a certain amount of satisfaction. I ask, Sir, if you can prevent that contingency why not prevent it? Why should you afford facilities for child marriage by means of this provision for exemption from this Bill? That is my position.

Personally, Sir, I do not want to make any inroads upon the feelings of my Brahmin friends who I know are sufficiently elastic and accommodating. At the same time, I would appeal to them to prevent child widowhood. That is the reason why the Sarda Act had so much support in British India.

Social reform is necessary not only here but also in the rest of India. That is the reason why, even recently, the Women's Conference recommended legislation recognising widow remarriage and so recent as February 1938, the amending Bill of Mr. B. Das, in respect of Sarda Act, to make the restriction more effective in practice and observance was passed in the Legislative Assembly.

Another argument is that the Tamil Brahmins in the State have marriage connections with the Tamil Brahmins in British India. There the law is one and here the law is entirely different. There the marriage is not permitted before the girls attain the age of 14. But here marriage of girls by custom has got to take place while they are under 14 years. How is it possible to have free marriage connection between the Tamil Brahmins in the State and those in British India, if the law in the two places is not the same? Here it is true the Tamil Brahmins form a very small part of the population but in British India there are lakhs and lakhs of Brahmins. Is it not therefore up to us to see that the law in this State is brought into line with that in British India. This has to be considered before Mr. Ramasubba Sastri presses his amendment to a division.

MR. V. K. VELAYUDHAN: Sir, I oppose the amendment. I am of opinion that regard being had to the conditions prevailing in Travancore there is no great urgency for the passing of such a piece of legislation. But when once this Bill has been introduced and the principle of the Bill has been accepted by this House, my submission is that the House should very seriously consider this amendment before they accept it. The amendment has been moved to give effect to the

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religious practices obtaining among the Tamil Brahmins. I think, among the Brahmins in the whole of India the practices relating to marriage are more or less similar. The Brahmins in British India are affected by the Sarda Act which is in force there. I was listening to the members who supported the motion and was eagerly looking forward to any argument in support of something peculiar which will apply to the Brahmins in Travancore and which does not apply to the Brahmins in British India. But I must confess that not a single honourable member who supported the motion has placed anything before this House which would give a special exemption to the Brahmins in Travancore.

In this connection I may bring to the notice of this House one aspect of the question. Through out India we are passing through a period of social revolution. This is a social piece of legislation and when the Brahmins in British India, where by far the great majority of Brahmins are residing, are affected by the Sarda Act, why not we conform to this All-India Social Legislation? Certainly I could have respected the sentiments of the honourable Brahmin members if I had been convinced that they really voice forth the feelings of the Brahmin community in this country. Mr. P. S. Nilacanta Aiyar has told us that among the Brahmins post-puberty marriages are on the increase and at present it can be said that post-puberty marriages are even more numerous than pre-puberty marriages. It has also been argued in support of this amendment that it is a religious sacrament. I fail to see the force of this argument. It has been said that in the case of poor men they can very well get over religious injunction by marrying their daughters even after puberty. Then it comes to this it is all left to the convenience of the parents or guardians. If they are rich and if it is convenient for them they may have the marriage before puberty. If they are not rich and if it does not suit their convenience they can freely postpone it and perform it after puberty.

I fail to see the force of the argument based on the Vedas and Smritis. They give certain injunctions to Brahmin practices and according to me it cannot be said that there is today any true Brahmin in the strict sense of the sastras. We do not see such a Brahmin anywhere in this world. If we strictly confine ourselves to the injunctions in the vedas and the smritis we must certainly see an ideal Brahmin community which lives right up to those injunction. My point is that we can quote scriptures, smritis and vedas in support of the practice of a community which conforms to the descriptions in the smritis and vedas. But such an ideal community we do not see anywhere in the world, let alone Travancore or India. After all what we have to consider is the actual practice, obtaining in the community and when we consider that aspect we see that even among the Brahmin community there is no hard and fast rule. There is no strict practice in the community to see that the daughters are married before the age of puberty. Another point that I wish to lay before the House is that even though this piece of legislation is intended to cover all the communities in the land, in practice the Brahmin community will be the only community to be materially affected. If the House is going to accept this amendment

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[Mr. V. K. Velayudhan.]

the result of it will be practically to reduce the Bill to a nullity. The bill will then have no effect at all. When this House has accepted the principle that there should be some restraint on child marriages, certainly the House must very seriously consider whether we can accept this amendment which is in effect against the very principle of the Bill. With these observations I oppose the amendment.

MR. A. J. JOHN: Sir I support the amendment before the House. In this connection I would say that my chief reason for doing so is that one particular community has stated that it wants this particular amendment. We must respect the opinion of the members of the community. I think that in itself is sufficient for the House to support the amendment.

Some of the honourable members have stated that there is a technical defect in this amendment. Since we have accepted the principle of the Bill, they say that this amendment will nullify the effects of the Bill. It is true to some extent. But this should not deter us from considering the amendment. When this Bill was first introduced in the House, the members of the Community might not have understood the full implications of the Bill. Now that they have realised them, they have come forward with this amendment and we have the power either to accept it or to reject it. It cannot be said that since that stage is over this amendment should not be accepted. The point to be considered is whether this amendment is really necessary for the people belonging to that particular community. If we find so we should not stand in technicalities. It has been stated that we must not take into account the religious practices of others. I do not agree with that. In this particular matter we must respect the religious practices of the Community also. With these words I support the amendment.

MR. E. JOHN PHILIPOSE: Sir, I oppose this amendment. I wish to make my position perfectly clear. I had not intended to participate in this discussion. But the difference that my friend Mr. E. Subramonia Aiyar sought to make with regard to the internal conditions of Travancore and those in other places compels me to make this observation. It is this: He seems to think that the Temple Entry Proclamation does not affect the internal conditions of a Brahmin because it does not impinge on any sacramental obligation. By this Bill no sacrament is sought to be nullified. The only thing that is sought to be restrained is the age of marriage and as such that difference does not come and that argument does not go far. I belong to a religious persuation which believes in sacraments and I will be the first person to oppose any social legislation that seeks to nullify the sacramental obligation of any persons. With these words I oppose the amendment.

MR. K. R. RAMASUBBA SASTRI: I must appeal to the House to give me a patient hearing for at least a few minutes. One of the previous speakers attacked the Brahmin community as a whole and

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said that they do not deserve to exist. It may be so But you will find that according to the sacred scriptures of all Communities, according to the view of that member no Community deserves to exist. You will find therefore that the conditions stated in the scriptures have to be taken as more or less allegorical. Another member said that Seeta was married to Rama at the age of 16. But Ramayana also says that Rama moved freely with monkeys. Are we to take these things as anything other than allegorical? So in judging of a religion, or a sacrament and beliefs of any person we have to consider the circumstances and the meaning of the thing as my friend Mr. E. Subramonia Aiyar put it. There is always a conflict between the higher ego and the lower ego, the brute man and the sacramental man, the man who cries to perform his duties properly according to the dictates of his religion and the lower man who is prepared to surrender to the dictates of his senses. I submit that aspect of the case has to be taken into account by all the members of the House. We should also remember that the human being, if you believe in Hindu theology, is the only being that stands in the position of enjoying his free will and do good or evil as he chooses. If he does good he is promoted to the position of an angel or a Rishi. If he does bad then he continues to be either a human being for ever or decends into the lower regions of creation, that is he takes the animal form etc. Whether you take it as true or not, it is entirely different.

Members of this honourable House who really believe in sacraments should respect the sentiments of the Brahmin community. I do not propose to say by this that all Brahmins should be ideal Brahmins. If that were so, my humble submission is that we need not have been born at all in this world. We should not be judged from an ideal stand point as was referred to by one member. We should be judged from the stand point of erring human beings. Our present social position should not be taken advantage of by the honourable members of the House in coming to a different conclusion. Every weakness or whatever it be of an individual should not be taken as the weakness of the community at large. The aim of a man should be to do good deeds by means of which he could get salvation and by omitting bad deeds, by which he may not attain that position. There is a saying in the Gita, the substance of which is that Sri Krishna does not want that God is not liable for the good and bad deeds of human beings or for their effects.

നാദത്തേ കസ്യചിത് പാപം ന ചൈവ സുകൃതം വിഭുഃ
അജ്ഞാനേനാവൃതം ജ്ഞാനം തേന മുഹ്യന്തി ജന്തവഃ.

(*Verse 15—Chapter 5 Gita*).

God compels no man to do good or bad deeds. He has his free choice and enjoys the fruit of such good or bad deed. Knowledge is enveloped by nescience—Hence mortals are deluded.

No one should be forced to become an ideal Brahmin. It does not follow from this that a Brahmin shall not aim at higher standards.

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[Mr. K. R. Ramasubba Sastri.]

Besides, I would draw the attention of the House to the principle on which I based this amendment. I merely want that I should be allowed to perform an innocuous betrothal ceremoney without a penalty. It may bring a child widow. Under the Mahomedan law any guardian of the child can give the child in marriage. When the child grows of age, it is open to her either to conform to it or not. Let the girl marry when she comes to 16, 18 or even more. That is not an objectionable point. All that I wish to point out is, allow me to perform the betrothal and nothing more. So far as the Brahmins are concerned, sacrament is a duty cast on them. So, I ask for exemption not that I do not agree with some evils of child marriage. I am prepared to say that a child marriage may bring about evil ; there will be child widows, so to say, I am prepared to go that length. To say that a child should not be given in marriage even by her own parents is a real hardship. I have only to plead on behalf of the community that their scruples should be respected. Allow them to perform an innocuous betrothal ceremoney at least, at the age of 8. After the girl comes of age, say 16, consummation can take place.

PRESIDENT: Does the honourable member's argument take me to this extent, namely that at the age of 16, another sacrament may be performed ?

MR. K. R. RAMASUBBA SASTRI: I simply emphasise on betrothal which is a more innocuous ceremoney. I want to draw a distinction here.

MR. E. SUBRAMONIA IYER: May I know, by that socalled betrothal, does the relationship of husband and wife constitute a marital tie for all purposes, keeping in view the fact that for purposes of consummation, it may be postponed ?

PRESIDENT: That was the very question I asked the honourable member a little while ago. It was not clear from the argument of the honourable member. Is it the member's contention that, following the Narada Smriti in regard to Ashtavarshakanya, supposing a betrothal takes place at the age of eight, should another sacrament be conducted at the age of 16 when consummation takes place ? Applying the analogy of the Mahommedan law, which was put forward by the member, is it open to have another sacrament performed or is the first sacrament to remain indissoluble and permanent for all purposes.

MR. K. R. RAMASUBBA SASTRI: That traces me to the question where religion differs from law. But, what I would submit in this connection is that there is a last amendment which says that a child marriage shall be void. I will support that amendment. The marriage is void and voidable at the option of the girl as it were. Therefore, allow us to perform betrothal at the age of 8 and consummation may be allowed to take place when the girl attains 16th year of age.

MR. M. SIVATHANU PILLAI: Does the Shastras say that Sacrament is voidable ?

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MR. K. R. RAMASUBBA SASTRI: Sacrament has to be performed at the age of eight as per Sastras. If you say that it may be performed at the age of 16 also, I have no objection at all. Most of the Brahmins will be only too glad to surrender their daughters to be taken care of by Government.

MR. E. J. PHILIPOSE: May I know, does the member speak on behalf of the community?

MR. K. R. RAMASUBBA SASTRI: I have received copies of resolutions from 22 villages protesting against this piece of legislation. Those petitions are all before the Government. Now I make a plea on behalf of various Brahmin communities as well as myself. All that I want to say is, please allow me to have the betrothal performed at an early age.

PRESIDENT: It is not in order to discuss a possible hypothetical legislation. The member will please remember the Proviso in issue.

MR. K. R. RAMASUBBA SASTRI: Yes, Sir. It was stated here by some members that there is no such religious sacrament and that they will even forego sacraments in preference to compulsion. I ask whether it is a fair proposition to be put forward. No doubt, the Brahmin community, is not only in a minority. It is also disorganised. It has no leader. It has no ecclesiastical voice. There is no so-called supreme head who can dictate. Even if Sankaracharya begins to say that such and such should be done, a suit for defamation will be brought up. Annoyance will be caused. He will be dragged to courts.

PRESIDENT: The honourable member should not make statements unless he is absolutely certain. There is, however, one thing the member knows very well. Not only from the time of Sankara, but even from the time of Vedas, there has been no religious head to that particular community and the religious head, if there is any, has not been recognised even. Each man is supposed to exist for himself.

MR. K. R. RAMASUBBA SASTRI: I do not propose to enter the realm of religion at all. But, I submit that—

PRESIDENT: I am anxious that in this discussion, if this discussion drags us into the region of religious controversy or of doctrinaire polemics, we should be absolutely accurate about facts.

MR. K. R. RAMASUBBA SASTRI: So far as that aspect is concerned, the position of the Brahmin community is such that they are entitled to choose any Matadhipathi for their following. Allegiance can be had in that manner. Every man is allowed to follow his own conscience in the matter. The community is in a disorganised state, so much so, there is no authority in whom we can rely for an opinion. Even if there be, the opinion is that they are all against this Bill. They say that Kannikadanom is only one-sixteenth of a samskara which a Brahmin has to go through in order to become a divine being. After all, it is an innocuous ritual which I think nobody would oppose. That betrothal need not be followed by consummation at all. Why should a Brahmin be prevented from doing an act which enables him to obtain a special spiritual result. That aspect of the matter has to be considered by the House.

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[Mr. K. R. Ramasubba Sastri.]

Therefore, I would say, both with reference to my age and position and the theological studies that I have entered into, I could not necessarily put forward a proposition which would not be welcomed by the Brahmin community. I can only be expected to come forward with a move for what is absolutely necessary for the Brahmin community. With great deference to members of other communities, a certain amount of self respect in the Brahmin necessitates that he should protest against others teaching him *his own* religion. It is very right, if there is reason, to say that the religion is bad. A person is entitled to say that a particular religion is bad. But when you say that we must obey the dictates of others, when you say that the Brahmin community is one who is incapable of protecting themselves, when you say that we must submit to your laying down the laws for our guidance—that is a position hard to bear. One of the members went to the extent of saying that the whole legislation is in the interest of the Brahmin community. Some said, the Brahmin has no business to indulge in secular activities. What I beg to point out at this juncture is even the Brahmin has got a belly like the others. If a Brahmin is allowed to seek employent, how can he earn his living.

PRESIDENT: I do not think any apology for the existence of Brahmin is really necessary. I do not think an apology for the existance of the Brahmin community is relevant.

MR. K. R. RAMASUBBA SASTRI: I submit that if this amendment is not allowed the Brahmin community ceases to exist. It is practically an extermination of the Brahmin community from the religious point of view. I submit therefore that to treat sacrament as something absolutely unnecessary and as of no value is to say that I should be penalised for my religion.

Another aspect of the question which I would place before the House is this. It was said that sathi was removed by legislation. Did the Brahmin community say that the woman would lose her status if she did not perform sathi? Did at any time the Brahmin community say that she will be an outcaste by not doing so? An attempt to suicide can be punished. But to say that the Brahmin should not be protected on his spiritual conviction is entirely wrong.

MR. E. SUBRAMONIA AIYAR: Is the honourable member aware that modern theorists of criminology favour suicide?

MR. K. R. RAMASUBBA SASTRI: I do not know whether I should answer the question or not.

PRESIDENT: That is entirely left to the discretion and position of the honourable member. No honourable member is bound to answer any other honourable member.

MR. K. R. RAMASUBBA SASTRI: But I would say that it is a cowardly way of escaping from the evils of the world. Once you escape you come in again. Where is the prudence in suicide? If you try to

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escape from this world by such methods the chances are that you may be chucked in again. So long as we can live by the grace of God we should not transgress His laws to such an extent that we are forced to commit suicide. We are allowed a certain amount of discretion. I do not think my friends will say that this is a sacrament and so there should not be any sense of proportion. The Brahmin is adaptable and anxious to pray for the welfare of all 14 worlds also.

PRESIDENT: I would exhort the honourable member to confine himself to this world. (*Laughter*).

MR. K. R. RAMASUBBA SASTRI: As the Brahmin beleives in the chances of the other world, I have to say something about the aspects of the other world also.

PRESIDENT: The honourable member will deal very lightly with the other world. (*Laughter.*)

MR. K. R. RAMASUBBA SASTRI: What I submit is that the difficulty with reference to the Brahmin has been simply this. He has been too adaptable. When the Bill was introduced it was decided that the details would be considered in the Select Committee. Now it is said that "you must subject yourself to every condition we impose. We do not believe your religion." If that is the attitude the honourable members of this House will take, we will rest on the grace of the Government and the mercy of His Highness the Maharaja.

Every philosopher who comes to India says that the spiritual atmosphere of the Brahmin home is very enviable because of the early marriage. I may say that the wave of material civilization is passing along India also. Philosophers of England and other western countries are convinced of the philosophy of the Hindu religion. No doubt we are at the wrong end of meterial civilisation. It may be that the other wave spiritual may come in. The atmosphere of Brahmin homes is so pure and so healthy simply because both the husband and the wife recognise that it is the interest of the child that should be looked into first. Therefore if a father or mother should in any way do any act against his conviction it will imperil the safety of the child. The woman must believe that her husband is not only a partner for civil purposes for her protection and sex enjoyment but also as a spiritual guru who is as good as God himself. In that respect till the Brahmins imitate the West and think that the woman is only a partner and does not take such spiritual interest I think it is best to leave them alone. With great deference, I would say that the whole question of caste and other things have been misunderstood by many honourable members. The question of food comes in for the home life. It was because of vegetarianism..... .....

PRESIDENT: I have been very anxious indeed to allow the fullest latitude of discussion. But the honourable member will see that the discussion of what may be called the fundamental theories of Hindu or Brahmin faith would take us much longer than contemplated. I think that it will not be strictly relevant. The honourable member will remember that he must confine his remarks to what is strictly pertinent to the particular aspect of the matter discussed.

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MR. K. R. RAMASUBBA SASTRI: Then, all I would say is that till all women come forward any sad that we should not appear for them and that we should be regarded junior partners, let this amendment which places the husband in the position of a spiritual guru be accepted.

One word more with your permisssion. In this connection what judge Lindsay has said is to be taken into consideration. Nature says that girls are fit for sex life between the ages of 12 and 13 or sometime even earlier. Eminent jurists in western countries come forward and say that they are in favour of early marriages. They say that early marriage is better because the moral atmosphere will be well protected. Unfortunately in these days where there is no reverence and discipline, or the belief of God, at least the respect for the interest of the child ought to be looked into, and for that they want early marriages. They should not be placed in a dangerous predicament of becoming mothers before they are enabled to get themselves married. Most of the honourable members said that there will be a large number of widows if early marriage is permitted. But I say that there will be an equally large number of unmarried males if early marriage is not allowed. If the girl wants to be married after attaining majority where is the chance of getting a husband? In fact, social atmosphere in western countries is going down. Healthy home life is not got because the moral side is weakened. I may say that so far as this amendment is concerned it is a very necessary amendment not only in the interest of the children whom the parents might be entrusted to look after better more than others but also in the interest of healthy home atmosphere.

MR. K T. THOMAS: Is it the member's view that according to Hindu religion no sacrament is infallible?

MR. K. R. RAMASUBBA SASTRI: I may say that the marriage is sacramental only if the person is religiously so inclined. In these days religions play only a very small part in the actions of mankind and even womankind. It is for the individual to assert his right whether he should indulge in wealth and sons, at the risk of his spiritual welfare.

MR. K. T. THOMAS: May I know whether the sacrament of betrothal is for the boy and girl or for the parents?

MR. K. R RAMASUBBA SASTRI: So far as the boy is concerned it is sacramental for the father who has a duty to be get a son. As for the girl I suppose the present conditions will have to be amended and say that the woman should be allowed the right of property if they are not to be gifted away by the father. According to the Hindu theology the ideal of Brahmin male is asceteism and that of the female propagation of species.

PRESIDENT: Order, order. Under the rules I propose to offer one or two observations before putting the amendment to vote. As has been clearly explained by the Legal Remembrancer the attitude of Government is one of neutrality and that attitude will have to be even more istrictly adhered to than otherwise in view of the observations made by Mr. Ramasubba Sastri regarding his amendment. Thefore it is my duty to make the points of law absolutely clear so far as the

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Hindu system of Jurisprudence is concerned, because there has been a certain amount of doubts cast on those fundamental tenets by certain observations made here. Under the Hindu system marriage has evolved from the vedic times and that system is based on a sacrament. When the *sapthapathi* ceremony and certain other conformitant ceremonies take place in spite of the age of the bride and the bridegroom even though they are below 12, the marriage becomes a sacrament and it is indissoluble from that date. That is the first principle so far as the Hindu system of marriage is concerned. Therefore it is not open for the boy or the girl at any time after the entry into that sacrament to confirm, or reject or to have the option of either. I think I have made the legal position clear.

The amendment was put to the vote of the House and lost.

MR. E P. VARGHESE: I demand a poll, Sir.

A poll was taken and the House divided as follows:

AYES—20.

1	Mr. S. Chattanatha Karayalar	11	Mr. P. V. Mathai Chemparathy
2	,, E. E. Pandarathil	12	,, K. Narayanaperumal Nadar
3	,, D. Francis	13	,, Narayanan Namboori
4	,, A. J. John	14	,, N. Ramakrishna Pillai
5	,, N. John Joseph	15	,, M. Ramiah Pillai
6	,, Joseph Vithayathil	16	,, P. J. Sebastian
7	,, M. Kesava Panickar	17	,, E. Subramonia Aiyar
8	,, T. C. Kesava Pillai	18	,, E. P. Varghese
9	,, T. T. Kesavan Sastri	19	,, K. R Ramasubba Sastri
10	,, Thariathu Kunjithommen	20	,, P. S. Nilakanta Aiyar

NOES—28.

1	Mr. Kottalil P. Abraham	15	Mr. S. Narayana Pillai
2	,, P. C. Adichan	16	,, K. R. Narayanan
3	Sahib Bahadur V. Chandamiah	17	Srimati T. Narayani Amma
		18	Mr. G. P. Nilakanta Pillai
4	Mr. Kannara Gopala Panickar	19	,, S. Nilakanta Pillai
5	,, N. V. Joseph	20	,, Kainikkara M. Padmanabha Pillai
6	,, K. C. Karunakaran		
7	,, K. Kesavan	21	,, E. John Philipose
8	,, K. P. Kochukora Tharakan	22	,, Codiveetil C. Raman Kunju
9	,, Kaviyoor K. K. Kochukunju	23	,, M. Sivathanu Pillai
10	,, P. K. Kumaran.	24	,, A. Thanu Pillai
11	,, P. Kunjukrishnan	25	,, K. T. Thomas
12	,, M. G. Matthew	26	,, T. M. Varughese
13	,, P. Nanoo	27	,, V. K. Velayudhan
14	,, N. Narayana Kurup	28	,, N. Velu Achary

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NEUTRALS - 12.

1 Mr. Puthupalli S. Krishna Pillai	6 Mr. M. Govinda Pillai
2 Sahib Bahadur P. K. Kunju	7 „ A. Gopala Menon
3 Mr. C. O. Madhavan	8 „ K. J. Cherian
4 Dr. Harler	9 „ M. Ramachandra Rao
5 Mr. P. Parameswaran Pillai	10 „ R. Krishnaswami Rao
	11 „ P. Raman Pillai
	12 „ M. K. Nilakanta Aiyar

The question whether clause 1 stands part of the Bill was then put to the vote of the House and carried.

Clause 1 was added on to the Bill.

Clause 2.

MR. K. R. RAMASUBBA SASTRI: Sir, I beg to move that in Clause 2, sub-clause (a) the word "twelve or fourteen" may be substituted for the word "sixteen" after the words "and if a female, under."

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, he may be asked to select one of the amendments either "twelve" or "fourteen."

PRESIDENT: The Honourable member will easily percieve that he cannot possibly have the words "twelve or fourteen." He may select one of the figures.

MR. K. R. RAMASUBBA SASTRI: Sir, I choose "fourteen." In the British Indian Act, the age is fixed at fourteen. Here it is fixed at sixteen. Sir, I may submit that at sixteen is a perilous age for a female to be fixed. My own impression is that this question of marriage is itself an evil ordained by God and for us Hindus our preceptors the Rishies, Budhas, Devas and Angels have formulated certain rules for it to be observed sacramentally. What I would say, Sir, is that when a man is not able to concentrate on penance for self-realisation, he is allowed to forego such karma (penance) and he chooses a wife for the satisfaction of sexual desires. It is in that sense that Vrishabha the bull is worshipped in India by the Hindus. So far as the human body is concerned more responsibility rests on the mother and the father is only an irresponsible accessory. He has absolutely nothing responsible so far as the child is concerned. A mother cannot estrange herself from the child even after its birth. She is to protect it in her woumb for nine months and till the child is able to take care of itself. That is why nature has made the females of all species more ferocious than males. (*Laughter.*) Therefore I appeal to the House in the interests of peace in homes and in the interests of dharma and because we are not to take into consideration the material welfare alone to accept fourteen as the age for marriage and not sixteen. As Mr. E. Subramanya Aiyar has stated let us at least have this negative excuse in confining the age to fourteen.

MR. E. SUBRAMANYA AIYAR: Sir, I second the motion. Without prejudice to speak upon another motion.....

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MR. PUTHUPALLY S. KRISHNA PILLAI: If fourteen is accepted it will be difficult to go for twelve.

PRESIDENT: It has been proved in British India that it was difficult to have different ages.

MR. E. SUBRAMANYA AIYAR: Sir, the spiritual aspect of the question has been placed before the House by Mr. Sastri. But I am here concerned only with the practical aspect of it. No doubt, when I was discussing the other motion it was pointed out to me that we Brahmins are concerned with this marriage more as a matter of our condition in after life; and we are not doing it in the interests of the children. Sir, I must contradict that view. Marriages are conducted solely in the interests of the children and the parents' interests are only subsidiary and subordinate to the interests of the child. Certainly as a parent and as one who have had direct experience in this I refute with all the strength the suggestion and I assert that pre-puberty marriages that are preformed by a Brahmin are done in the interests of his children. No self-respecting Brahmin parent is performing marriages subordinating the interests of the child to his interests. An argument of that description is absolutely without weight. The question is whether the parents can bring about a marriage for their children more effectively to their greater advantage than the children themselves after they attain their so called majority. That is to say, suppose a girl attains an age of fourteen or fifteen or sixteen. It may be said the children's wishes may also be consulted. I put it to the House to consider whether a girl of sixteen will be more competent to find a proper husband than the parents themselves who have the interests of the children at heart. For the sake of argument certainly different view points may be put forward. The Scientists have their own conclusions. It is a more rationalising process. Some say that free love is better and that it is conducive to the happiness of a married life to bring about marriages according to the consent of the parties concerned.

That is the better course than a third party bringing about the marriage. Well, as I began by saying, we Brahmins, as a class, are and do take a different view. In the joint family system, in our social life, we are proud of that fact, the parents are more competent to bring about the decided matches for their children. Whatever one may say, as a matter of argument, every one of you is alive to this fact. How many months of anxiety, how many nights and days of anxitey, the troubled parents have to undergo to find a proper match for their daughter. As a social satire here and there you can come across one or two instances and say a parent has sold a child for money or anything of the kind. That will appeal to the public. But if you search in your heart, don't you find that the Brahmin parents have got much love for their offspring. Do not the Brahmin parents spend laborious nights and days, nay months running from place to place with horoscopes in had to find out a proper match for their child? Certainly whatever you might say I am not a believer in free love. Love

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[Mr. E. Subramonia Aiyar.]

comes afterwards. I am not speaking of perdition or sin. I don't believe for a moment however orthodox though I may be, that because my child is not married in particular year, I am going to hell. If I go to hell, it is because of my acts. If heaven is in store for me, I must say, it is the result of my action. But I am speaking from the practical stand point of a Hindu parent who has experience in this matter and who has realised this situation. I am of opinion that by performing marriages of this description, the Brahmin community has certainly preserved its integrity, its purity, its independence and its learning. So, if I am told that free love is better and that people must be allowed to marry each other at 17 or 18, well, I for one, cannot sponser such a cause. I am sure that the Brahmin community will be alive in this matter.

Now, coming to this particular age, Mr. Sivathanu Pillai said that there would be many child widows and therefore we should exclude girls below 14. I feel that it is a mere argument. Suppose a girl is married in the 16th year what guarantee is there that the husband will not die after his 18th year? What guarantee is there to say that the death of a human being is more current under a particular age, say, between 18 and 30. Moreover, here it is the death of the husband that has to be taken into consideration. Have you got the statistics to say that the male dies in a particular age. There is absolutely no harm in it. It is only a specious argument, that if the age is fixed at 12 and if the husband dies after the 16th year, she shall be a child widow. If the marriage is at 15 and if the husband dies then also necessarily she becomes a child widow. It is not to get rid of all these matters that the legislation is brought about. Conjugal life between two persons of opposite sex should not be permitted till they attain a particular age. It is alright to attribute early motherhood, consequent maternity troubles and mortality to child marriage. If it is a question of widowhood I think it cannot be easily got rid of. We cannot go on this basis. We are coming to the question of age limit. To my mind it appears that once you go on with a particular age, say, 10 or 12, there must be nothing to choose between one or the other. No doubt, one argument which may be pressed against is, that in British India the age is 14. The Brahmins here necessarily must have marital relations with the Brahmins outside Travancore. These are admitted facts. As a matter of fact, I must admit, that Brahmins in Travancore are not confining their marital relations to the Brahmins exclusively in Travancore. Certainly marriages take place between Brahmins in South India and those in Travancore and Cochin. So it may be legitimately asked, that once you accept the principle of this Bill, all other considerations apart, if the age limit is 14, why not it be here also 14. No doubt, it is a very weightly circumstance to be taken into consideration. So far as 16 is considered my submission is that it is too much. It is raising the age, I would say, with a certain amount

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of vengeance. I don't want to go to the physiological or psychological reasons which pertain to these matters. Because most of us know it. Let us ask what is the marriagaeble age for a girl. Well, certainly very few of us will say that it is a pleasure to keep their daughters till sixteen. I don't want to dilate upon that matter. It is a matter which is known to all persons. You can think for yourself. According to me, though the opposite sex is not a ferocious animal in the words of my friend Mr. Ramasubba Sastri—I don't treat them as ferocious, then I part company with them—they are animals who should be kept under control not by restraint or anything of the kind. I put it very mildly. No parent will feel it a very pleasant thing to have a number of unmarried girls of 16 or 17 in their household. His responsibility will be very great. I put it very mildly. The rest you may infer. In any event if you go to raise the age do not raise it beyond the maximum of 14. There is a limit to elasticity. The greatest strain will be put upon as even by the limit of 14 years. I may appeal to you to bring it down to anything less. Any how we shall stop at 14. I am sure all the members of the House will support me in putting the age at 14 without any further discussion in this matter. In all these matters certain amount of compromise is essential Every one feels that reform is necessary. But it should be done step by step, not all on a sudden. We have been, as a matter of fact, not familiar with this. This is a new thing to us. Give the medicine in small doses. Do not ask us to take in large quantities. So, as a first step fix the age at 14. If you feel then that the so called evil still persists we can come here again; probably Mr. Ramasubba Sastri will be alive. He can say that a higher limit is necessary. When these words I support Mr. Ramasubba Sastri.

MR. A. THANU PILLAI: Sir, I support the amendment for two reasons. Firstly, it will bring the law in to conformity with the British Indian Act; secondly, 14 is not an age which is too early for marriage.

MR. M. G. MATTHEW: Sir, I too support the amendment. The age fixed in British India is 14. The mover of the Bill had fixed it at 15 in the original Bill. The Select Committee, by a majority, raised it to 16 while some of them think that it should be fourteen. The original Bill contained a provision by which marriages of girls between ages of 13 to 15 might be solemnised, if the sanction of the District Magistrate was obtained, if special circumstances existed. The Select Committee appointed to consider the Sarda Bill, wanted to fix the age at 11 or 12. This being a penal law, we should enhance its ambit, only just as is necessary to serve the purpose of its legislation. In the statement of objects and reasons, it is mentioned that child marriage is not an evil in Travancore and the provision *re*: the permission of the District Magistrate has been deleted. The purpose of the Legislation is to make a provision to regulate the age of parties to a marriage, so that their physical and moral development may not be hampered. Taking all these facts into consideration, my suggestion is that we may strike at the golden medium of 14 years of age.

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SRIMATHI T. NARAYANI AMMA: Sir, since in the Sarda Act, on which my Bill is more or less based, the marital age of girls is fixed to be fourteen, I accept the amendment.

MR. JOSEPH VITHAYATHIL: Sir, I support the amendment for the following additional reasons. In the case of Catholics, according to the Canon Law, marriageable age for girls is 14. If this amendment is not allowed there will naturally be a conflict between the civil law and the canon law. Moreover, unless our law is brought into line with the British Indian law, marriages can be solemnised in British India in the case of girls over the age of 14 and below 16 and thereby the purpose of this enactment can be defeated.

The amendment was put to vote and carried.

MR. P. S. NILAKANTA AIYAR: On a point of order, Sir, Srimati Narayani Amma has merely appended her signature to the report of the Select Committee and has not reserved in her favour the right to propose further amendments here at this stage. I submit therefore that she cannot now move any amendment.

PRESIDENT: Although some members of Select Committee make their attitude quite clear by adding a further sentence to the effect that they reserve to themselves the right to propose further amendments at the second reading in the House there is no law or inflexible procedure compelling a member of a Select Committee so to reserve the right to propose amendments.

SRIMATI T. NARAYANI AMMA: Sir, I beg to move the following amendment:

> "In clause 2 (*c*), between the words 'is' and 'thereby,' insert the words 'is about to be'."

Sir, my object in moving this amendment—as also subsequent amendments standing in my name—, is to bring this bill into line with the latest British Indian Legislation on this subject. As the honourable members are aware, our present Bill is based more or less on the Sarda Act of 1929. But that Act has since been amended in last April with a view to remove some of the defects of the original Sarda Act, and to provide for the better and stricter enforcement of the provisions of that Act. I think it is highly necessary that our Bill is also suitably amended and brought into line with the amended British Indian Act of April, 1938.

The amendments that I propose do not in any way affect the real object of the Bill which is to restrain child marriages. The object of the present motion is obvious to prevent marriages that have been arranged to take place.

MR. M. G. MATTHEW: I oppose the amendment. There is no provision in the Bill penalising the conduct of the contracting parties prior to the marriage. One can understand the parties to the marriage being penalised. I do not think there is any justification in penalising the contracting parties for what they do before the marriage. I therefore oppose the amendment.

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MR. M. SIVATHANU PILLAI: May I invite the attention of the honourable member to amendment No. 22 which is going to be moved by Srimati T. Narayani Amma? I am sure my friend will understand the object of the present amendment when he sees amendment No. 22, which contemplates action against the contracting parties also.

MR. PUTHUPALLI S. KRISHNA PILLAI: There are two lists of amendments; in one, the amendment referred to by Mr. Sivathanu Pillai is numbered as 22, and in the other as No. 26. The present amendment is in order and has been accepted in British India in view of their new Section 12 which has now been passed into law. That provision empowers the Magistrates having jurisdiction over the place to issue an injunction preventing the contracting parties from proceeding further with the marriage.

PRESIDENT: The present amendment would not be in order unless amendment No. 26 is carried.

MR. A. THANU PILLAI: In that case, will it not be better to consider this amendment after amendment No. 26.

PRESIDENT: I think that will be better.

Clauses 3 to 5.

The question that Clauses 3 to 5 do stand part of the Bill was put to vote and carried. The clauses were added to the Bill.

Clause 6.

MR. E. P. VARGHESE: I move that the proviso be deleted.

Sir, the proviso exempts women from being punished with imprisonment for offences under these provisions. I do not want women to be so exempted, especially in this matter in which they will have a prominent part and the most dominating voice.

Sir, there are several offences under the law for which women are liable to be punished with imprisonment. I do not see any reason why they should not be subjected to imprisonment in this instance also.

MR. M. G. MATTHEW: I support the amendment. I have also sent up an amendment for the same purpose.

Sir, where the provisions of the Bill are violated, one of the parties to the marriage will be underaged and in such cases it is the guardian of such party that is held liable. It may very often happen that such guardian is a woman. If a woman takes active part in violating the provisions of the law, why should she escape imprisonment? Sir, the days are gone when women wanted and were given special privileges. Now they themselves are asking for equality of treatment for the sexes. They want equal opportunities with men in all walks of life. Naturally therefore they should be prepared to subject themselves to all the liabilities also that men are exposed to.

In the Penal Code also except in the case of capital punishment for murder and offences against marriage, the women are liable to be punished with the same punishment as men are liable to. It is true that in the Sarda Act, which was passed in 1929, there is provision for

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[Mr. M. G. Matthew.]

excusing women from undergoing imprisonment. But, as I said, these are days when women compete with men for equal opportunities everywhere. It is therefore not fair that they fight shy of the risk of undergoing the same punishments.

Certainly, Sir, if any offending woman is not liable to be imprisoned, she will be fined for the offence under the law; and if she does not pay such fine, then she is liable to be imprisoned. If for non-payment of fine she can be imprisoned, why not, I ask, she be imprisoned for the offence itself.

MR. PUTHUPALLI S. KRISHNA PILLAI: May I remind the honourable member that, in the case of imprisonment for non-payment of fine she can be released immediately on payment of fine? She can avoid the jail by paying the fine. But, by any means, she cannot avoid the jail if we make her liable to be punished with imprisonment for offences under this measure.

MR. M. G. MATTHEW: I am surprised to find the Legal Remembrancer putting such a question to me when he knows very well that, under the Penal Code, women are liable to be punished with imprisonment. On the sole initiative and responsibility of women, many child marriages may be celebrated and the whole purpose of the present Bill will be defeated by exempting women from imprisonment; because all that they need do to defeat these provisions is to pay the prescribed fine. I hope the House will consider that aspect of the question seriously and will accept the amendment if really they intend legislating for the betterment of the physical condition of children.

PRESIDENT: The House will now adjourn to meet again on the next day.

The Assembly adjourned at 5 P. M.

A. GUNAMONY,
Secretary to the Sri Mulam Assembly.

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